



0000101467

BEFORE THE ARIZONA CORPORATIC

IN THE MATTER OF ARIZONA PUBLIC )  
SERVICE COMPANY AND VERIZON )  
CALIFORNIA, INC.'S JOINT PETITION )  
FOR THE ESTABLISHMENT OF AN )  
UNDERGROUND CONVERSION SERVICE )  
AREA. )

DOCKET NOS.  
E-01345A-07-0663  
T-01846B-07-0663

EVIDENTIARY  
HEARING

At: Phoenix, Arizona

Date: July 22, 2009

Filed:

AUG 06 2009

Arizona Corporation Commission

DOCKETED

AUG - 6 2009

DOCKETED BY

2009 AUG - 6 P 3:34  
AZ CORP COMMISSION  
DOCKET CONTROL

RECEIVED

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME II

(Pages 250 through 544, inclusive.)

ORIGINAL

ARIZONA REPORTING SERVICE, INC.

Court Reporting

Suite 502

2200 North Central Avenue

Phoenix, Arizona 85004-1481

Prepared for:

By: Kate E. Baumgarth, RPR  
Certified Reporter  
Certificate No. 50582

ACC

**FOR  
INTERNAL  
&  
INTERAGENCY  
USE  
ONLY**

Pursuant to the contract with Arizona Reporting Service all transcripts are available electronically for internal agency use only.

Do not copy, forward or transmit outside the Arizona Corporation Commission.

|    |  |      |
|----|--|------|
| 1  | INDEX TO EXAMINATIONS                    |      |
| 2  | WITNESS                                  | PAGE |
| 3  | DONALD L. WILSON                         |      |
| 4  | Direct Examination by Mr. Metli          | 266  |
|    | Cross-Examination by Ms. Mitchell        | 277  |
| 5  | Cross-Examination by Mr. Sabo            | 280  |
|    | Cross-Examination by Mr. Lorch           | 293  |
| 6  | Cross-Examination by Mrs. Lorch          | 299  |
|    | Cross-Examination by Mr. Nelson          | 308  |
| 7  | Cross-Examination by Ms. Lynne Muzic     | 319  |
|    | Cross-Examination by Ms. Joy Muzic       | 322  |
| 8  | Cross-Examination by Mr. Dodson          | 326  |
|    | Cross-Examination by Ms. Wilson-Kawagoye | 328  |
| 9  | Cross-Examination by Mrs. Bond           | 347  |
|    | Cross-Examination by Mr. Garcia          | 350  |
| 10 | Cross-Examination by Ms. Jones           | 355  |
|    | Examination by ALJ Harpring              | 362  |
| 11 | Redirect Examination by Mr. Metli        | 372  |
|    | Recross-Examination by Ms. Mitchell      | 374  |
| 12 | Recross-Examination by Mr. Sabo          | 375  |
|    | Recross-Examination by Mr. Nelson        | 388  |
| 13 | Recross-Examination by Mr. Garcia        | 393  |
|    | Further Examination by ALJ Harpring      | 397  |
| 14 |  |      |
| 15 | WILLIAM KEARNS                           |      |
| 16 | Direct Examination by Mr. Hallam         | 398  |
| 17 | Cross-Examination by Ms. Mitchell        | 401  |
|    | Cross-Examination by Mr. Sabo            | 402  |
| 18 | Cross-Examination by Mr. Benton          | 404  |
|    | Cross-Examination by Mr. Lorch           | 406  |
| 19 | Cross-Examination by Mrs. Lorch          | 408  |
|    | Examination by ALJ Harpring              | 409  |
| 20 | Recross-Examination by Mr. Lorch         | 417  |
|    | Recross-Examination by Mrs. Dodson       | 421  |
| 21 | Recross-Examination by Mr. Garcia        | 423  |
|    | Recross-Examination by Mr. Dodson        | 424  |
| 22 | Recross-Examination by Mr. Lorch         | 426  |
| 23 |  |      |
| 24 |  |      |
| 25 |  |      |

|    |                                    |          |
|----|------------------------------------|----------|
| 1  | INDEX TO EXAMINATIONS              |          |
| 2  | WITNESS                            | PAGE     |
| 3  | ARMANDO FIMBRES                    |          |
| 4  | Direct Examination by Ms. Mitchell | 429      |
|    | Cross-Examination by Mr. Sabo      | 433      |
| 5  | Cross-Examination by Mr. Lorch     | 435      |
|    | Cross-Examination by Mr. Benton    | 438      |
| 6  | Examination by ALJ Harpring        | 440      |
| 7  |                                    |          |
| 8  | RON NELSON                         |          |
| 9  | Direct Testimony                   | 450      |
| 10 | TOM LORCH                          |          |
| 11 | Direct Testimony                   | 452      |
| 12 |                                    |          |
| 13 | TEDDIE LORCH                       |          |
| 14 | Direct Testimony                   | 454      |
| 15 | PHILIP J. GARCIA                   | RECALLED |
| 16 | Examination by ALJ Harpring        | 456      |
|    | Cross-Examination by Mrs. Dodson   | 459      |
| 17 |                                    |          |
| 18 | JOY MUZIC                          |          |
| 19 | Direct Testimony                   | 461      |
|    | Cross-Examination by Mr. Lorch     | 469      |
| 20 | Cross-Examination by Mrs. Lorch    | 470      |
|    | Cross-Examination by Mr. Benton    | 472      |
| 21 | Examination by ALJ Harpring        | 472      |
|    | Cross-Examination by Mr. Nelson    | 481      |
| 22 | Cross-Examination by Mr. Benton    | 482      |
|    | Cross-Examination by Mr. Metli     | 483      |
| 23 |                                    |          |
| 24 | LYNNE MUZIC                        |          |
| 25 | Direct Testimony                   | 485      |

## 1 INDEX TO EXAMINATIONS

2 WITNESS PAGE

3 BILLIE DODSON

|   |                                    |     |
|---|------------------------------------|-----|
| 4 | Direct Testimony                   | 489 |
|   | Examination by ALJ Harpring        | 492 |
| 5 | Cross-Examination by Mr. Nelson    | 502 |
|   | Cross-Examination by Ms. Joy Muzic | 506 |
| 6 | Cross-Examination by Mr. Sabo      | 510 |

7

JOHNNY DODSON

8

|                  |     |
|------------------|-----|
| Direct Testimony | 517 |
|------------------|-----|

9

10 WAYNE DUNHAM

|                  |     |
|------------------|-----|
| Direct Testimony | 518 |
|------------------|-----|

12

STEVE BENTON

13

|                  |     |
|------------------|-----|
| Direct Testimony | 519 |
|------------------|-----|

14

15 HARLAYNE BOND

|                  |     |
|------------------|-----|
| Direct Testimony | 525 |
|------------------|-----|

17

## 18 INDEX TO EXHIBITS

19

| 20 NO. | DESCRIPTION | IDENTIFIED | ADMITTED |
|--------|-------------|------------|----------|
|--------|-------------|------------|----------|

|        |                              |     |     |
|--------|------------------------------|-----|-----|
| 21 H-7 | Hillcrest Bay's responses to | 510 | 516 |
| 22     | APS's first set of data      |     |     |
|        | requests dated 05/22/2009    |     |     |
| 23     | APS 1.2                      |     |     |

23

|        |                          |     |     |
|--------|--------------------------|-----|-----|
| 24 A-1 | Updated APS and Verizon  | 268 | 270 |
|        | recalculated percentages |     |     |

24

25

1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Arizona Corporation Commission, in Hearing Room 1 of said  
4 Commission, 1200 West Washington Street, Phoenix, Arizona,  
5 commencing at 10:00 a.m., on the 22nd, of July, 2009.

6

7 BEFORE: SARAH N. HARPRING, Administrative Law Judge

8

9 APPEARANCES:

10 For the Arizona Corporation Commission Staff:

11 Ms. Robin Mitchell  
12 Staff Attorney, Legal Division  
13 1200 West Washington Street  
14 Phoenix, Arizona 85007

15 For Arizona Public Service Company:

16 SNELL & WILMER  
17 By: Robert J. Metli, Attorney at Law  
18 One Arizona Center  
19 40 East Van Buren Street  
20 Phoenix, Arizona 85004

21 and

22 PINNACLE WEST CAPITAL CORPORATION  
23 By: Thomas L. Mumaw, Attorney at Law  
24 400 North 5th Street  
25 P.O. Box 53999, MS 8695  
Phoenix, Arizona 85072

For Verizon California, Inc.:

LEWIS AND ROCA, LLP  
By: Michael T. Hallam, Attorney at Law  
40 North Central Avenue, 1900  
Phoenix, Arizona 85004

1 For Hillcrest Bay, Inc.:

2 ROSHKA DeWULF & PATTEN

3 By: Mr. Timothy J. Sabo, Attorney at Law

4 One Arizona Center

5 400 East Van Buren Street, Suite 800

6 Phoenix, Arizona 85004

7

8 For Intervenor John Sears and Jane Sears, #144:

9

10 In propria persona

11 10532 Mira Vista Drive

12 Santa Ana, California 92705

13

14 For Intervenor Ron Nelson and Sylvia Nelson, #186A

15 In propria persona

16 835 Max View Drive

17 Parker, Arizona 85344

18

19 For Intervenor Tom Lorch and Teddie Lorch, #238, #239:

20

21 In propria persona

22 2948 Via Blanco

23 San Clemente, California 92673

24

25 For Intervenor Philip Garcia, #245A

26 In propria persona

27 3152 Walker Lee Drive

28 Los Alamitos, California 90720

29

30 For Intervenor Carole Jones, #149A, #153:

31

32 In propria persona

33 7991 Inwood Lane

34 La Palma, California 90623

35

36 For Intervenor Joy Muzic, #14A:

37 In propria persona

38 10315 Felson Street

39 Bellflower, California 90706

1 For Intervenor Lynne Muzic, #15, #47A:

2 In propria persona  
3 16411 Underhill Lane  
4 Huntington Beach, California 92647

5 For Intervenor Johnny Dodson and Billie Dodson, #43A:

6 In propria persona  
7 816 Bay View Drive  
8 Parker, Arizona 85344

9 For Intervenor Wayne Dunham, #106, #017:

10 In propria persona  
11 P.O. Box 68  
12 San Clemente, California 92674

13 For Intervenor Steve Benton, #35A:

14 In propria persona  
15 2948 South Noble View Drive  
16 Parker, Arizona 85344

17 For Intervenor Harlayne Bond and William Bond, #133:

18 In propria persona  
19 6042 West Potter Drive  
20 Glendale, Arizona 85308

21 For Intervenor Judy Wilson-Kawagoye, #240:

22 In propria persona  
23 2971 Dunlap Drive  
24 Parker, Arizona 85344

25

26 KATE E. BAUMGARTH, RPR  
27 Certified Reporter  
28 Certificate No. 50582

29



1 ALJ HARPRING: Hello everybody. We are going to  
2 get started. Please take your seats.

3 Okay. We are going to go on the record.

4 Good morning. As I think you all know, I'm  
5 Administrative Law Judge Sarah Harpring, and I have been  
6 assigned to this matter.

7 This is the second day of the second hearing in  
8 the matter of Arizona Public Service Company and Verizon  
9 California, Inc.'s joint petition for the establishment of  
10 an underground conversion service area. Docket number are  
11 E-01345A-07-0663, et al.

12 Before we get started, I have been asked to  
13 remind you all to please clean up after yourselves. You  
14 may have noticed that there is still debris in this room  
15 from yesterday. That is because, as I'm sure you're  
16 aware, the State has limited resources, and we don't  
17 really have housekeeping in this room. So anything that  
18 you would leave behind is pretty much going to be left  
19 behind unless someone from one of the offices at the  
20 Commission Staff comes and cleans that up. That is not  
21 really what they are supposed to be doing.

22 So I ask you please to either use the trash cans  
23 in this room or in the restroom or outside the building  
24 and clean up after yourselves. We would very much  
25 appreciate it.

1 And for the record I am going to essentially take  
2 attendance. We are not going to call it appearances.

3 I can see that Mr. Sabo is here. Mr. Metli is  
4 here. I'm sorry. Mr. Mumaw is also here. Mr. Hallam is  
5 here. Ms. Mitchell is here. And then I'm going to run  
6 through the property owner participants who I expect to be  
7 here -- I'm also going to call names of people I don't  
8 expect, just to make sure it's absolutely who is present.

9 When I call your name, please just raise your  
10 hand. I will indicate for the record that you have done  
11 so. Okay?

12 Jane Sears? She is present.

13 John Sears? He is present.

14 Robert Nielson? Not present.

15 Ron Nelson? He is present.

16 Sylvia Nelson? She is present.

17 Bonnie Strong? Not present.

18 Robert Strong? Not present.

19 Robyn Stein? Not present.

20 Grace Babcock? Not present.

21 Tom Lorch? He is not present.

22 Teddie Lorch? She is not present.

23 Phillip Garcia? He is present.

24 Terence Bitrich? Not present.

25 Carole Jones? She is present.

1 Joy Muzic? She is present.

2 Lynne Muzic? She is present.

3 Nando Haase? Not present.

4 Billie Dodson? She is present.

5 Johnny Dodson? He is present.

6 Wayne Dunham? He is present.

7 Janet Calvin? Not present.

8 Steve Benton? He is present.

9 Harlayne Bond? She is present.

10 Judy Wilson-Kawagoye? She is present.

11 Marjorie Ward? Not present.

12 And William Bond? Not present.

13 Okay. Thank you all.

14 As I am sure you probably noticed yesterday, I  
15 stopped calling you each individually to see if you had  
16 questions. I did that for the sake of efficiency, and it  
17 seemed to me that it worked okay asking you all to  
18 indicate if you did have questions for a witness. So I  
19 intend to continue doing that unless someone has an  
20 objection.

21 Does anyone object to my doing that?

22 MR. METLI: No objection.

23 ALJ HARPRING: Okay. Mr. Sabo?

24 MR. SABO: No objection.

25 ALJ HARPRING: Mr. Hallam?

1 MR. HALLAM: No objection, Judge.

2 MS. MITCHELL: No objection.

3 ALJ HARPRING: Any property owner parties?

4 (No response.)

5 ALJ HARPRING: No objection. Okay. So that is  
6 the way we will continue to do things today.

7 Are there any other procedural matters that need  
8 to be addressed this morning before APS gets started with  
9 their case?

10 MS. MITCHELL: Yes, Your Honor. It's  
11 Robin Mitchell for Staff.

12 ALJ HARPRING: Yes.

13 MS. MITCHELL: Mr. Fimbres and I were going  
14 through the updated cost estimates --

15 ALJ HARPRING: Yes.

16 MS. MITCHELL: -- that were provided by Tades.  
17 And Staff has a -- and then there was the gentleman who  
18 spoke yesterday -- I can't remember his name -- that spoke  
19 that said that he had not receive his updated cost  
20 estimate.

21 ALJ HARPRING: Okay.

22 MS. MITCHELL: Well, when we reviewed the numbers  
23 in the updated cost estimate, there were approximately 28  
24 parcels where the cost had gone up --

25 ALJ HARPRING: Oh.

1 MS. MITCHELL: -- since the initial cost  
2 estimate. And Staff was just concerned -- and of those  
3 parcels the majority of them still voted yes.

4 ALJ HARPRING: Okay.

5 MS. MITCHELL: And Staff just wanted some  
6 clarification that, you know, they did indeed receive an  
7 updated cost estimate and that they did realize that the  
8 costs had gone up when they in turn voted yes again on the  
9 updated petition.

10 I have spoken with Mr. Sabo. You know, my  
11 preference would be to call Mr. Sears -- to recall  
12 Mr. Sears, but Mr. Sabo informs me that in their  
13 prehearing filings, as an attachment, was an updated cost  
14 estimate, which, of course, was mailed to all the party  
15 owners. But we just had concerns, as Staff, that people  
16 were properly noticed and made an informed vote the second  
17 go-around.

18 ALJ HARPRING: Okay. As a matter of  
19 housekeeping, please let the record show that Tom Lorch  
20 and Teddie Lorch are now present.

21 Did you have a suggestion, Ms. Mitchell?

22 MS. MITCHELL: My preference would be just to  
23 recall Mr. Sears and just go through just a short series  
24 of questions if no one has any objection.

25 ALJ HARPRING: Okay.

1 MS. MITCHELL: Or if Mr. Sabo has maybe some  
2 easier or quicker solution.

3 ALJ HARPRING: Mr. Sabo?

4 MR. SABO: Yes, Your Honor, my preference would  
5 be just to take official notice, as you did of the other  
6 docket filings earlier that both the May 1st filing and  
7 then our prehearing brief filing had that cost estimates  
8 attached to them and so the property owners were provided  
9 with those costs estimates.

10 ALJ HARPRING: And that was in May of 2009 and  
11 thereafter?

12 MR. SABO: That's correct.

13 ALJ HARPRING: Was your concern that they had  
14 received those prior to the new petition?

15 MS. MITCHELL: Yes. Yes. We just -- you know, I  
16 get confused on the timing of how all this -- you know,  
17 what came before what. But Staff just wanted to make sure  
18 that people had enough information to make an informed  
19 vote.

20 ALJ HARPRING: On the new petition?

21 MS. MITCHELL: Yes, ma'am.

22 ALJ HARPRING: Which is actually about a year old  
23 at this point?

24 MS. MITCHELL: Yes.

25 ALJ HARPRING: Okay. Mr. Sabo, would you --

1 would HBI stipulate that folks did not receive those  
2 revised cost estimates prior to the new petition going  
3 out?

4 MR. SABO: Your Honor, could I have a moment,  
5 please?

6 ALJ HARPRING: Absolutely.

7 MR. SABO: Your Honor, HBI can stipulate that  
8 there were no updated cost estimates provided at the time  
9 of the survey -- at the time the survey was sent out  
10 approximately a year ago; however, at this time HBI is  
11 unable to verify that there are, in fact -- the factual  
12 predicate of Staff's question, that there are lots whose  
13 costs are higher under the Tades estimate than what was  
14 the case under the previous estimate.

15 ALJ HARPRING: Staff, does that stipulation  
16 satisfy your need for additional information?

17 MS. MITCHELL: Well, I suppose --

18 ALJ HARPRING: If it doesn't --

19 MS. MITCHELL: -- if Your Honor can take  
20 sufficient notice and give it whatever weight you deem  
21 appropriate.

22 Staff just had the concern that the people that  
23 we did identify -- that we did identify 28 parcels where  
24 the cost had gone up and was just unsure whether the  
25 property owners had realized that their costs had gone up.

1 ALJ HARPRING: Are you saying that the cost is  
2 higher than the cost reflected in the joint cost estimates  
3 provided by APS and Verizon?

4 MS. MITCHELL: Yes.

5 ALJ HARPRING: Yes?

6 MS. MITCHELL: It's the Tades versus the  
7 pre-May 2008 cost where there is a difference.

8 ALJ HARPRING: Right. Was it -- did you notice,  
9 was it the private costs that made the difference or was  
10 it the APS and Verizon costs?

11 MS. MITCHELL: We just looked at total versus  
12 total.

13 ALJ HARPRING: Okay.

14 MS. MITCHELL: The total conversion -- the first  
15 total conversion cost and then the updated total  
16 conversion cost.

17 ALJ HARPRING: Okay. Why don't we see what APS  
18 puts on for their case and also Verizon and how they  
19 address their revised cost estimates, and then if you  
20 still have a concern that additional information needs to  
21 be made available on the record through testimony through  
22 Mr. Sears or perhaps a late-filed exhibit, including  
23 additional information from Mr. Kellogg, please make sure  
24 that you bring it to my attention.

25 MS. MITCHELL: Thank you, Your Honor. That



1 satisfies me. Thank you.

2 ALJ HARPRING: Thank you.

3 And, Ms. Wilson-Kawagoye, you indicated there was  
4 a procedural matter that you wanted to address?

5 Madam, are you a property owner?

6 MS. PEDREGON: Yes, I am.

7 ALJ HARPRING: And you weren't here yesterday?

8 MS. PEDREGON: No, I wasn't.

9 ALJ HARPRING: Would you please come to the  
10 podium?

11 Could you state your name for me, please.

12 MS. PEDREGON: Veronica Pedregon.

13 ALJ HARPRING: And what are your parcels?

14 MS. PEDREGON: I don't know. I'm not prepared.  
15 I didn't know I was going to come and talk here.

16 ALJ HARPRING: Do you know your parcel numbers?

17 MS. PEDREGON: Lot No. 8? I don't know my lot  
18 number.

19 Do you have them?

20 ALJ HARPRING: That is okay.

21 Did you want to make any statement in this case  
22 at all?

23 MS. PEDREGON: No, I didn't.

24 ALJ HARPRING: You just came to observe?

25 MS. PEDREGON: Yes.

1 ALJ HARPRING: All right. Thank you.

2 Are there any other procedural matters before APS  
3 calls their first witness?

4 (No response.)

5 ALJ HARPRING: No. Okay. Then, Mr. Metli,  
6 please go right ahead.

7 MR. METLI: Thank you, Your Honor. APS calls  
8 Mr. Donald Wilson to the stand.

9

10 DONALD L. WILSON,  
11 called as a witness herein, appearing on behalf of APS,  
12 having been first duly sworn by the certified court  
13 reporter, was examined and testified as follows:

14

15 DIRECT EXAMINATION

16

17 BY MR. METLI:

18 Q. Good morning, Mr. Wilson.

19 A. Good morning.

20 Q. Would you please state your full name and  
21 business address for the record.

22 A. Donald L. Wilson, Arizona Public Service, 1221  
23 Arizona Avenue, Parker, Arizona 85344.

24 Q. And, Mr. Wilson, what is your position at APS?

25 A. I'm the Parker area manager.

1       Q.     Mr. Wilson, isn't it true that you testified at  
2 the January 18, 2007 hearing in this matter?

3       A.     Yes, I did.

4       Q.     And in addition isn't it true that you also  
5 answered questions for the commissioners at the July 1,  
6 2008 open meeting?

7       A.     Yes, I did.

8       Q.     Okay. So you're familiar with the efforts of HBI  
9 to establish this underground conversion area; correct?

10      A.     Yes, I am.

11      Q.     Are you also familiar with the efforts of HBI to  
12 update the record on the issue of economic feasibility?

13      A.     Somewhat.

14      Q.     Okay. Are you the APS representative qualified  
15 to answer questions related to the petition that was filed  
16 in this case?

17      A.     Yes, I am.

18      Q.     To your knowledge, has APS been tracking the  
19 customer comments filed in this matter since the July 1st  
20 open meeting?

21      A.     Yes.

22      Q.     Okay. And, to your knowledge, has APS calculated  
23 updated percentages related to lot owners who are in favor  
24 and not in favor of this project?

25      A.     Yes, we have.

1       Q.     Okay. Mr. Wilson, I'm going to direct your  
2 attention to what I have marked as Exhibit A-1.

3             Do you have that in front of you?

4       A.     Yes, I do.

5       Q.     Can you identify that document, sir?

6       A.     It's A-1, five pages titled "Updated APS and  
7 Verizon Recalculated Percentages as of July 10th, 2009."

8       Q.     And, sir, was that document prepared under your  
9 direction or control?

10      A.     Yes.

11      Q.     Okay. I would like to go briefly through the  
12 document. We will start at page 1 of 5.

13             Can you identify for me on the first page the  
14 information that is presented?

15      A.     This is pretty much a summary. It begins with  
16 the parcel counts represented off petitions. The first  
17 line is the Administrative Law Judge's recommended order  
18 on 5/16 of '08 that indicated a square foot percent in  
19 favor of 59.69 percent and parcel percentage, which would  
20 be the square foot percentage, of 62.9 2 percent.

21             It also reflects APS updated information as of  
22 7/10/09, which would be 10 days before the beginning of  
23 this hearing, of 129 parcels in favor, square footage  
24 percent of 52.41 and a parcel percentage square footage of  
25 53.97 and then has two areas where it indicates votes that

1 were changed from yes to no and from no to yes.

2 Q I would like you to look at pages 2 through 4.

3 Can you identify what those pages depict, please?

4 A Those pages represent the detail and calculations  
5 to arrive at those percentages for each parcel. It has  
6 the information as of the May 16, 2008 count, I guess we  
7 could call it. It has a column that indicates the updated  
8 information, which reflects changes in votes that were  
9 filed with the Commission between the original petition  
10 and July 10th. And then it has a column for the owners  
11 and addresses and parcel sizes.

12 Q Mr. Wilson, I'm next going to direct you to page  
13 5 of Exhibit A-1.

14 Could you turn to that?

15 A Okay.

16 Q Can you identify what this sheet depicts?

17 A Somewhat similar to the first page in that it's a  
18 summary. The only real difference is that there was one  
19 parcel owner that indicated a vote change from yes to no  
20 that came in after the July 10th date. So it reflects  
21 that information. And a total parcel count of affirmative  
22 or yes votes of 128.

23 Q Thank you.

24 Mr. Wilson, I'm going to leave Exhibit A-1.

25 MR. METLI: At this point, Your Honor, I would

1 like to move A-1.

2 ALJ HARPRING: Any objection?

3 MR. SABO: No, Your Honor.

4 MS. MITCHELL: No, Your Honor.

5 MR. HALLAM: No.

6 ALJ HARPRING: Any of the property owner parties  
7 object to the admission of Exhibit A-1?

8 (No response.)

9 ALJ HARPRING: Okay. Seeing none, Exhibit A-1 is  
10 admitted.

11 (A-1 was admitted into evidence.)

12 Q BY MR. METLI: Mr. Wilson, have you had an  
13 opportunity to review the revised petitions filed by HBI  
14 in this docket?

15 A Yes.

16 Q Okay. Did APS assist in the preparation or  
17 solicitation of signatures for those petitions?

18 A This would be the survey that was conducted at  
19 the request of the Commission?

20 Q Correct.

21 A No, we did not.

22 Q Did APS play any role in verifying the accuracy  
23 of that survey?

24 A No, sir.

25 Q I next would like to go to the cost estimate that

1 Tades prepared.

2 Have you had an opportunity to review that?

3 A. Yes.

4 Q. And first, you were present yesterday when  
5 Mr. Kellogg was on the stand?

6 A. Yes, I was.

7 Q. And you heard his testimony?

8 A. Yes, I did.

9 Q. And there appeared to be some confusion regarding  
10 whether Tades was an APS-approved contractor.

11 Were you here for that?

12 A. Yes, I was.

13 Q. Can you shed some light on that? Have you done  
14 any research to determine whether or not Tades is, in  
15 fact, an APS-approved contractor?

16 A. I have had several contacts and conversations  
17 over the last several months, in particular as late as  
18 this morning, with Don Hoopes, who works with Wendi Fazzi,  
19 which is the person that Mr. Kellogg indicated he sent the  
20 documentation to.

21 As far as they have been able to determine, the  
22 contractor information sheet and the certificate of  
23 insurance that he indicated he had sent second quarter of  
24 2008, they have no record of that.

25 The next step beyond that before becoming an

1 approved APS contractor would be an executed master  
2 agreement between the contractor and APS, and that has not  
3 be completed with Tades or Mr. Kellogg.

4 Q Okay. Going to the cost survey itself, do you  
5 have any -- in reviewing the cost survey, do you have any  
6 concerns associated with the ultimate or the price that  
7 Tades indicates they would bid this project?

8 A I have a couple concerns. One is that when APS  
9 contracts trenching condo-type work, part of our estimate  
10 includes our administrative and general load. Those loads  
11 were not applied to the costs presented by Mr. Kellogg.  
12 That would make about a 10 percent difference based on the  
13 prior estimate in his costs. The APS portion of that for  
14 the public area and service work was about \$455,000, so we  
15 are looking at about 45- or \$46,000 difference increase in  
16 that cost.

17 I also had some concerns with statements that  
18 Mr. Kellogg made regarding the service costs being  
19 allocated based on square footage. I'm not clear just  
20 exactly how they calculated that.

21 In the original estimate the contractor provided  
22 a detailed cost per lot for each lot so that that property  
23 owner was paying his cost and his cost only for that  
24 service conversion.

25 My concern is that APS being limited in their



1 costs by the joint report and allocating that cost on the  
2 square footage, there is a potential -- and I haven't  
3 reviewed it in any great detail in comparing the two --  
4 but there was a potential that there would be increase for  
5 service cost for some lots.

6 Q And with respect to the original cost study that  
7 APS and Verizon prepared, why was the service costs  
8 estimated or prepared on a lot-by-lot basis?

9 A That was our interpretation of the way the  
10 statute was written on how those individual costs should  
11 be calculated.

12 Q Thank you.

13 I would next like to move -- we heard yesterday  
14 and in the filing of HBI there is a lot of talk about 42  
15 poles and if the conversion area is not approved, APS is  
16 going to install 42 additional poles.

17 Do you have an opinion on that issue?

18 A Yes, I do.

19 Q Would you like to share it with me?

20 A I'm going to have to review some of the bases for  
21 how we arrived at that number.

22 In looking at the system in Hillcrest Bay and the  
23 continuing development and the age of the system, it's my  
24 opinion that over the next 5, 10, 15, 20, 30 years, APS  
25 will be replacing a lot of poles in there. Poles are --

1 most of them are 30-plus years old of age. Normal  
2 depreciation on a pole is about 40 years from an  
3 accounting perspective.

4 It's not unusual for poles, some poles to last 50  
5 or 60 years, but overall it's going to become more and  
6 more difficult to maintain the system in a safe and  
7 reliable manner.

8 So in preparation or as part of the process for  
9 this undergrounding, I wanted to look at what it was going  
10 to cost APS to basically rebuild that system. And that  
11 was the basis for the overhead in the street design that  
12 indicates some 42 additional poles.

13 That is not to say that we are going to go out if  
14 the undergrounding is not approved and rebuild that system  
15 posthaste. As need and opportunity arises for us to do  
16 maintenance or additions to that system, we will be  
17 evaluating, based on the overhead plan, the existing  
18 facilities, based on cost and our ability to maintain the  
19 thing in the future.

20 So it's possible that we may replace some poles  
21 in place. It's possible that we may implement part of  
22 that overhead plan according to what we prepared.

23 Q But you don't anticipate that build being  
24 wholesale replacement of 42 poles within a five-year or  
25 even a ten-year period, do you?

1 A. No, I would not anticipate that.

2 Q. When APS -- if APS has to go out and replace a  
3 pole, who pays for that; do you know? How is that paid  
4 for?

5 A. Well, usually APS pays for it. If it's -- if we  
6 are replacing it because it's cracked, it's, you know, got  
7 butt rot, APS pays for that. The only exception would be  
8 if someone runs into pole or damages a pole, then we would  
9 attempt to recover those costs.

10 Q. When you say APS pays for that, it's in your  
11 budget and it's paid for by all ratepayers?

12 A. Yes.

13 Q. Another issue that arose yesterday when  
14 Mr. Kellogg was on the stand is a discussion regarding  
15 costs associated with laying a line by APS and the  
16 question was whether those costs were going to be in  
17 addition to the costs that Tades had in its estimate.

18 Were you here for that?

19 A. Yes, I was.

20 Q. Do you know what Mr. Kellogg was talking about  
21 regarding that cost?

22 A. Yes, I do. I believe so.

23 And this kind of goes back to the basis for the  
24 overhead plan with the 42 poles that we discussed  
25 previously, is if the undergrounding were to proceed, we

1 would avoid having to do that investment over time. So as  
2 part of the undergrounding project APS, in looking at the  
3 future cost for that overhead system -- maintenance,  
4 replacement -- communicated to the homeowners that we  
5 would install the APS wire transformers and facilities in  
6 that system at no cost to them provided that they put the  
7 conduit system in place that would enable us to do that.

8 Q So there would be no additional costs? That  
9 would be an avoided cost?

10 A Yes.

11 Q Okay. Mr. Wilson, there has also been some  
12 discussion about encroachments and safety of lines being  
13 in close proximity to the residences and decks.

14 Can you tell me, does APS periodically conduct  
15 safety inspections in Hillcrest Bay?

16 A Yes, we do. The entire APS distribution system  
17 is inspected on an annual basis. It's a public safety  
18 line patrol. In my area those are done by folks out of  
19 Phoenix that do that throughout the state.

20 As you may recall, last year that public safety  
21 patrol was somewhat delayed and completed just before the  
22 open meeting. No public safety hazards were identified  
23 last year, and actually we did two inspections last year.  
24 One with a particular focus on the overhead clearance  
25 issues and a second focusing on the condition of the butts

1 of the poles. Subsequent to that second inspection we did  
2 replace two poles that appeared to be weaker than they  
3 should be in the ground area.

4 That patrol has also been completed for 2009 and  
5 no public safety issues were identified.

6 MR. METLI: One second, Your Honor.

7 Q BY MR. METLI: Mr. Wilson, given the age of the  
8 system and your experience, is it your opinion that the  
9 system provides safe and reliable service?

10 A Yes, it is.

11 MR. METLI: Your Honor, that is all I have. I  
12 offer Mr. Wilson for cross-examination.

13 ALJ HARPRING: Okay. Mr. Hallam?

14 MR. HALLAM: No cross, Your Honor.

15 ALJ HARPRING: Ms. Mitchell?

16

17 CROSS-EXAMINATION

18

19 BY MS. MITCHELL:

20 Q I just have a few questions.

21 A Good morning.

22 Q Do you have the exhibits up there, H-5? It's the  
23 Hillcrest Bay prehearing brief.

24 A I have it.

25 Q And I have a couple questions on attachment 5;

1 it's the revised cost estimates, and it's the first page.

2 I will lay a little foundation for this question.

3           There were two property owners that filed  
4 comments in the docket, and they are Muzic and the  
5 Dunhams. And in their filing they indicated that they  
6 already undergrounded their utilities facilities. And I  
7 was confused about that -- by that statement because they  
8 still have costs associated with undergrounding.

9           Are you familiar with any of those properties?

10       A.   Not in particular.

11       Q.   Well, let me ask you, is it common for a  
12 homeowners to undertake to do their own undergrounding of  
13 their utilities service, their utilities lines?

14       A.   There are number of homes up there that do have  
15 underground service. Some of them have underground  
16 service from the back lot. Some of them have underground  
17 service from facilities that are in the front, either  
18 because that is where they were originally or we have  
19 brought the overhead across the lot to a new pole and then  
20 dipped underground.

21           In either case there may still be some costs  
22 associated in order to put new conduit in to get to that  
23 underground service. But in most cases if they have an  
24 underground service at the front of the property, they  
25 won't need to replace the meter panel so their private

1 cost is usually substantially less.

2 Here again, I can't really address the service  
3 cost on this because I believe Mr. Kellogg calculated it  
4 somewhat differently than we did.

5 Q All right. And in the calculation that APS did  
6 on those particular parcels where people say they had  
7 already undergrounded, there would still be APS service  
8 costs associated with that parcel even if there are  
9 utilities underground?

10 A Could be.

11 Q Okay.

12 A In some cases there may not be if they are  
13 actually coming from the front and we end up installing a  
14 transformer. That is public area cost and just extending  
15 their service into that without additional trenching.

16 Q All right. I think I understand.

17 MS. MITCHELL: Thank you. I don't have any other  
18 questions.

19 ALJ HARPRING: Mr. Sabo, you're next, but just as  
20 another housekeeping matter, if your phone is with you,  
21 please put it on silent. Even vibrate actually I can  
22 hear. But I at least understand if you feel the need to  
23 have it on vibrate, but I don't want hear any ringtones.

24 Thank you. Mr. Sabo, your turn.

25 MR. SABO: Thank you, Your Honor. Because we

1 haven't had the chance or opportunity to hear the  
2 witness's testimony before this and he has made a few  
3 comments that are somewhat surprising to me, I wonder if  
4 we could have a brief break. I think it would make our  
5 cross a little more organized.

6 ALJ HARPRING: How much time do you think you  
7 need?

8 MR. SABO: Five minutes, Your Honor.

9 ALJ HARPRING: Okay. We are in recess until --  
10 we will say 10:45 on that clock.

11 MR. SABO: Thank you, Your Honor.

12 (Whereupon, a recess was taken from 10:35 a.m.  
13 until 10:43 a.m.)

14 ALJ HARPRING: Okay. We are back on the record.

15 Mr. Sabo, are you ready to proceed?

16 MR. SABO: Yes, Your Honor. Thank you for that  
17 additional time. We were tracking down a few papers to  
18 use for the cross-examination, so thank you.

19

20 CROSS-EXAMINATION

21

22 BY MR. SABO:

23 Q Good morning, Mr. Wilson.

24 A Good morning.

25 Q Let's start with Exhibit A-1, because we did have



1 a chance to review that yesterday.

2 Was that prepared by you or under your direction?

3 A. Yes.

4 Q. And in turning to page -- for example, let's look  
5 at page 2. I see a bunch of Ys going down some of those  
6 column.

7 Does Y indicate -- under current vote, does Y  
8 indicate affirmative or a yes vote?

9 A. Under column B?

10 Q. Yes.

11 A. Yes, under current vote that would indicate that  
12 they had signed the petition to proceed, the second  
13 petition in this matter, and they had not filed with the  
14 Commission to change their vote to no.

15 Q. All right. And then I don't see any Ns in that  
16 column.

17 So I take it that you did not affirmatively count  
18 the number of people that voted no; is that correct?

19 A. That's correct.

20 Q. And so out of the people where there is not a Y  
21 next to their property, some of those people voted no and  
22 others of those people just didn't respond one way or  
23 another; is that correct?

24 A. Well, I think voted no is an incorrect term.

25 They either didn't sign the petition or they have since

1 changed and withdrew their signature, if that column is  
2 blank.

3 Q So some of the people where the column is blank  
4 have affirmatively indicated their opposition, and others  
5 have not indicated anything one way or the other; is that  
6 correct?

7 A That would be a true statement, yes.

8 Q And so then if we are looking to this exhibit to  
9 calculate the number of people who have affirmatively  
10 stated opposition, we would not be able to determine that  
11 based on this exhibit, A-1; is that correct?

12 A That's correct. That was not the intent of this  
13 document.

14 Q Thank you.

15 And then I see at the bottom and then it's  
16 repeated a couple places, it says, "Deadline for changes  
17 10 days prior to January 18, 2008 hearing." And then  
18 later on you have it as -- in the second part you have the  
19 deadline recalculated for July 2009; is that correct?

20 MR. METLI: Your Honor, objection. Can counsel  
21 identify what page he is looking at?

22 ALJ HARPRING: That would be helpful, Mr. Sabo.

23 Q BY MR. SABO: Sure. Mr. Wilson, could you turn  
24 to page 5 of this exhibit?

25 A Okay.

1       Q.     And it says up at the top after deadline of  
2     7/10/09; is that correct?

3       A.     That is what it says, yes.

4       Q.     And so that page assumes that the appropriate  
5     deadline is July 10th, 2009; is that correct?

6       A.     Yes, it does.

7       Q.     And just to confirm, you are not offering a legal  
8     opinion as to whether that is the appropriate legal  
9     deadline or not, are you?

10      A.     No, I'm not.

11      Q.     Thank you.

12             Let's talk a little bit about this issue of the  
13     additional poles.

14             MR. SABO:   Your Honor, may I approach the  
15     witness?

16             ALJ HARPRING:   Does his counsel know what you are  
17     going to show him?

18             MR. SABO:   Perhaps not.

19             MR. METLI:   No.

20             ALJ HARPRING:   Perhaps you should tell him first.

21             MR. SABO:   Your Honor, I have a transcript of the  
22     January 18, 2008 hearing.

23             ALJ HARPRING:   Okay.   Yeah, that is fine.   Please  
24     proceed.

25             MR. SABO:   Thank you.

1 MR. METLI: Your Honor, I have -- I think I have  
2 a copy. May I go to the back and get a copy and follow  
3 along?

4 ALJ HARPRING: Of course. I don't have a copy.

5 MS. MITCHELL: I have a copy.

6 ALJ HARPRING: I have one in my office but not on  
7 me.

8 Am I going to need one?

9 MR. SABO: Yeah, as long as Mr. Metli is going,  
10 you might as well grab one.

11 ALJ HARPRING: We are in recess until I come back  
12 in the room and say that we are not.

13 (Whereupon, a recess was taken from 10:48 a.m.  
14 until 10:49 a.m.)

15 ALJ HARPRING: We are back on the record.

16 Does everyone have what they need?

17 MR. SABO: Thank you, Your Honor.

18 Q BY MR. SABO: Mr. Wilson, you testified at the  
19 January 18, 2008 hearing; is that correct?

20 A Yes, it is.

21 Q And I have got a transcript of that testimony in  
22 front of you.

23 MR. SABO: Your Honor, I would ask that you take  
24 official notice of that transcript.

25 ALJ HARPRING: Actually, I intend to, as I think

1 I stated earlier, consider the entire evidentiary record  
2 thus far from the first hearing.

3 MR. SABO: Okay.

4 Q BY MR. SABO: Mr. Wilson, do you see on page  
5 102 -- could you turn to that page, please?

6 A Yes.

7 Q And do you see there where you talk about a  
8 document showing plan changes to the system that APS  
9 intends to make if the underground conversion is not  
10 approved? Do you see that discussion?

11 A Yes, I do.

12 Q And it talks about a map; do you see that?

13 A Yes.

14 Q And I believe that map was subsequently admitted  
15 as late-filed Exhibit A-12; is that correct? I think your  
16 counsel may have a copy of that for you.

17 A I believe it was submitted, but I don't know the  
18 exhibit number. Yes, that appears to be correct.

19 Q And was that the document you were referring to  
20 on page 102?

21 A I believe so.

22 Q Great. And then you see on page 103 where it  
23 says the Verizon facilities would be maintained or  
24 continue to exist; is that correct?

25 MR. METLI: Your Honor, it would be helpful if

1 counsel would identify a line that he is referring to so  
2 we can all follow.

3 ALJ HARPRING: Agreed.

4 MR. SABO: Certainly, Your Honor, and  
5 understanding I'm kind of doing this on the fly. I didn't  
6 know the witness was going to contest the 42 pole thing  
7 that he had previously testified about.

8 MR. METLI: Your Honor, I will object to counsel  
9 testifying to this case. That is unnecessary.

10 ALJ HARPRING: Mr. Sabo, please limit your  
11 editorial comments.

12 MR. SABO: Thank you, Your Honor.

13 Q BY MR. SABO: Mr. Wilson, on page 103 could you  
14 look at lines 9 through 15?

15 A Page 103 lines 9 through 15?

16 Q Yes.

17 A Okay.

18 Q And you indicated in those lines that this  
19 overhead system is jointly used by Verizon and APS; is  
20 that correct?

21 A That's correct.

22 Q And then if APS were to install additional  
23 facilities, you indicate in this quoted section that the  
24 existing poles would still be used by Verizon; is that  
25 correct?

1       A.     They would have the option to continue to use  
2 those poles, yes.

3       Q.     Thank you.

4             And then could you turn to the late-filed Exhibit  
5 A-12, the map of the system that you referred to?

6       A.     Okay.

7       Q.     And I have got a blown-up copy here. But  
8 basically this map shows the --

9             Does this map show the existing system? I think  
10 there is a legend that says, "Existing Electric Overhead  
11 7.2k Primary."

12      A.     Yes, it does.

13      Q.     And then it says -- part of legend says, "Primary  
14 to be removed."

15             And just to clarify, when it says "to be  
16 removed," that would be at the option of Verizon, as you  
17 had just testified.

18      A.     Yes.

19      Q.     And then it also shows some additional poles  
20 being added potentially by APS, if there is not an  
21 underground conversion; is that correct?

22      A.     Yes.

23      Q.     And would you agree with me that it shows  
24 approximately 42 new poles being added?

25      A.     That is the number that has been discussed. I

1 will stick with that. Yes.

2 Q. Thank you.

3 And, Mr. Wilson, turning back to the transcript,  
4 could you turn to page 104 of the transcript?

5 A. Okay.

6 Q. And why don't you just read the question on page  
7 2 and the answer that ends on page or line 7.

8 A. Question beginning on line 2?

9 Q. Yes.

10 A. "QUESTION: If APS does install the additional  
11 power poles, assuming that the underground conversion area  
12 does not get approved, and APS does install those poles,  
13 who would pay for that?

14 "ANSWER: APS would pay for that, and it would  
15 come out of my construction budget."

16 Q. All right. And then I see down on line 17 it  
17 says that that cost would be about \$327,000; is that  
18 correct?

19 A. That's correct.

20 Q. And is that the same cost you were talking with  
21 Mr. Metli about on direct examination, the afforded costs?

22 A. Yes.

23 Q. And then could you turn over to the next page,  
24 105?

25 A. Okay.



1 Q And let me see where that line was.

2 On lines 3 through 5 you indicate that the  
3 salvage value of the existing facilities is approximately  
4 zero; is that correct?

5 A That is what we considered for this, yes.

6 Q And is that still the case today?

7 A Pretty much, yes. We have replaced a couple  
8 poles.

9 Q Okay. Great.

10 And then if APS were to add the additional 42  
11 poles at some point in time in the future, as shown on  
12 this Exhibit A-12, that would -- would that result in an  
13 increase salvage value of the system?

14 A It would result in somewhat decreased salvage  
15 value but it would also add significantly to the  
16 undepreciated value of the system.

17 Q That is a better way of stating that. Thank you.

18 And in the future underground conversion would  
19 APS be expected -- would APS expect to be compensated for  
20 the undepreciated value of the plant if it had constructed  
21 those poles and then was forced to remove them?

22 A I would think so, yes.

23 Q Thank you, sir.

24 Let's talk a little bit about the original cost  
25 estimate.

1 Do you have a copy of that up there with you?

2 A. Specifically what part of the original cost  
3 estimate? And I don't think I have a copy of it.

4 ALJ HARPRING: Mr. Metli, do you have that, the  
5 joint cost report?

6 MR. METLI: I do. I will have to locate it.

7 ALJ HARPRING: Okay. Staff, you have it, don't  
8 you?

9 MR. SABO: And, Your Honor, if need be, I can  
10 give this copy to Mr. Wilson.

11 ALJ HARPRING: Okay.

12 MR. METLI: Your Honor, I do have a copy of it.

13 Would I be able to look over Mr. Wilson's  
14 shoulder?

15 ALJ HARPRING: You mean you want to stand next to  
16 him?

17 MR. METLI: Well, I would like to look at the  
18 report as he is asking questions.

19 ALJ HARPRING: Does anyone else object to that?

20 (No response.)

21 ALJ HARPRING: Okay. That's fine.

22 MR. SABO: It's only one question.

23 ALJ HARPRING: We're talking about the March 21,  
24 2007 joint report of estimated utility conversion cost; is  
25 that correct? Are we actually looking at the statement

1 document?

2 MR. SABO: I hope so, Your Honor. I don't have  
3 the cover pages Mr. Metli had, but it looks like the  
4 actual cost spreadsheet is the same.

5 ALJ HARPRING: All right. Well, I guess we will  
6 find out.

7 Go ahead.

8 Q. BY MR. SABO: Thank you, Mr. Wilson. Is the  
9 title of the document -- there are some cover pages and  
10 then there is what looks like a printout of a spreadsheet  
11 that goes on for several pages; is that correct?

12 A. Yes.

13 Q. And the spreadsheet is dated 3/20/2007; is that  
14 correct?

15 A. Yes.

16 Q. And I think we are looking at the same document.

17 And I see the various costs are broken out:  
18 public costs, service costs, and so forth; is that  
19 correct?

20 A. Yes.

21 Q. And really my only question is: The APS  
22 10 percent administrative and general load, is that  
23 specifically broken out anywhere on this document?

24 A. No, it's not.

25 Q. Thank you.

1 MR. SABO: That was all I had with that document,  
2 Your Honor.

3 ALJ HARPRING: Okay.

4 Q BY MR. SABO: Mr. Wilson, I think just a few more  
5 questions.

6 You had talked a little bit about this APS  
7 certification issue.

8 In your experience, is that a process that an  
9 experienced contractor that does significant utility line  
10 work would typically be approved if they submit their  
11 required documents?

12 A. Yes.

13 Q. Thank you.

14 And you worked -- there was a contractor that bid  
15 a price that was included in the original cost estimate;  
16 is that correct?

17 A. Yes.

18 Q. What was the name of that contractor?

19 A. For the trenching conduit and public service  
20 area?

21 Q. Yes.

22 A. That was TP Construction.

23 Q. And is TP Construction, to your knowledge,  
24 currently defunct or out of business?

25 A. They are still in business but they are no longer

1 doing this type of work.

2 Q Okay. Thank you.

3 MR. SABO: Your Honor, those were my questions,  
4 thank you.

5 ALJ HARPRING: Okay. Do any of the property  
6 owner parties have questions for Mr. Wilson?

7 Okay. Quite a few.

8 Could you raise your hands again? Okay. I'm  
9 going to take Mr. Lorch first, Mrs. Lorch second.  
10 Mr. Nelson, you had your hand up, didn't you?

11 MR. NELSON: Yes, ma'am -- or Your Honor.

12 ALJ HARPRING: Right. Lynne Muzic. I have got  
13 Joy Muzic. I have got Mr. Dodson, and I have got  
14 Ms. Wilson-Kawagoye. And then I have Mrs. Bond.

15 Is that everyone? Did I say everybody's name  
16 that had questions?

17 I'm sorry. I missed Mr. Garcia.

18 Anybody else?

19 (No response.)

20 ALJ HARPRING: Okay. Hi, Mr. Lorch.

21

22 CROSS-EXAMINATION

23

24 BY MR. LORCH:

25 Q Thomas Lorch.

1           Mr. Wilson, some of the questions, the answers  
2 may already be in the record, but just to refresh.

3           Some issues have been raised as far as the  
4 trenching -- Sorry about that.

5           Some issues have been raised regarding the  
6 trenching in a couple areas.

7           As far as considering the ground and rock and  
8 bedrock, is the trenching in the cost estimates feasible?  
9 Are they things -- since you have done work up there -- do  
10 you have the equipment to be able to go up and do the  
11 trenching with what their cost estimates have been  
12 estimated for?

13         A.     That is not really a question that I can answer.  
14 It's -- the contractors that are submitting the bids are  
15 very well aware of the soil conditions, and their bid  
16 should include whatever processes they need to provide  
17 trenching to APS specifications.

18         Q.     Okay. Is the trenching going to contain both the  
19 electrical power and also the telephone communications  
20 conduits?

21         A.     Yes.

22         Q.     Is there a depth and separation requirements for  
23 those?

24         A.     Yes, there is.

25         Q.     Do you know what they are?

1       A.     APS primary requires 32 inches of cover. We also  
2     have secondary conduits, and some of those are service  
3     conduits. Those are normally separated by 6 to 12 inches.  
4     And then telephone are separated from those by another 6  
5     or 12 inches. I'm not sure.

6       Q.     Okay. Thank you.

7             Do you know how much money that APS is putting in  
8     of its own for costs of this UCSA project in any manner,  
9     whether administrative, whether -- I heard you are  
10    taking -- potentially taking out some poles that then  
11    would require less maintenance in the future and possibly  
12    covering some costs in that respect. I don't know if you  
13    consider that to be costs over and above what is in the  
14    public service and private costs.

15    A.     Let me --

16             ALJ HARPRING: Mr. Lorch, I'm going to try to  
17    help the witness out a little bit. That was really long.

18             What specifically did you want to have him answer  
19    to?

20    Q.     BY MR. LORCH: Are they putting any of their own  
21    money in on this project?

22             ALJ HARPRING: There you go.

23             THE WITNESS: And the only costs that I'm  
24    familiar with to APS on this project would be the costs  
25    for the local facilities that we committed to provide at

1 no cost to the homeowners, which is the wire transformers  
2 for the new underground. And that costs was approximately  
3 \$300,000.

4 Q BY MR. LORCH: If this project is dismissed by  
5 the Corporation Commission, does APS foresee any  
6 underground conversion project such as this taking place  
7 or possibly being done in the foreseeable future?

8 A Our standard construction is overhead, so any  
9 undergrounding of facilities would be cost driven. We are  
10 not going to initiate it, a conversion on our own.

11 Q So since this was done by application to Arizona  
12 statute, that is probably the only way that it would come  
13 back again?

14 A I'm not familiar with the other statutes. There  
15 are improvement district options, you know.

16 Q Oh, there are other statutes besides the ones we  
17 are using for the petition?

18 A I believe so.

19 Q Okay. Since some of the costs were estimated to  
20 be lower using the Tades Construction Company and the  
21 question was raised about whether they were approved on  
22 your list, but would you, in consideration of lowering the  
23 cost, would you use Tades if possible?

24 A We would need to rebid the project because the  
25 contractor that gave us the original bid, which is now



1 virtually two years old, is no longer doing this type of  
2 work.

3           The process for us to rebid the project would be  
4 to put it out to APS-approved contractors that have an  
5 agreement with us and allow them to bid on it. If Tades  
6 is an approved contractor, then I would have no problem  
7 whatsoever working with them.

8       Q.    Okay. With respect to an estimated schedule, if  
9 the underground conversion service area was approved to be  
10 done, considering the preparation of specifications,  
11 updating drawings, et cetera, getting permits by the  
12 County and maybe some other boards or jurisdictions, is  
13 there a project estimated for -- I guess for beginning and  
14 completion? And the main question is, when are likely the  
15 public and service and private cost estimates to be  
16 assessed and the assessments actually begin?

17       A.    We haven't really worked out a projected time  
18 frame for completion. The public area assessments -- I  
19 would have to go back to the statute, but the public area  
20 assessments are due at a particular time. And there's a  
21 particular time frame and a specifications of what is  
22 considered completion of the project.

23           And then once the project reaches that stage,  
24 there is a time frame of, I think, 30 days for us to bill  
25 the public area cost.

1           The service costs are on a slightly different  
2 basis and are addressed differently in the statute, and I  
3 think could trail behind the public area costs being  
4 billed out.

5       Q     Okay. So some conversation took place at the  
6 hearing yesterday about a year or so.

7           Do you see -- if this was approved, let's say  
8 there is a hearing in August or September, let's say, if  
9 it was approved, is this project and assessment two years  
10 down the road, in your experience, with getting everything  
11 approved to actually starting?

12           Somebody said six months to actually complete. I  
13 don't know if that completion was just the trenching work,  
14 like Tades was talking about, or if that is the total  
15 installation of everything that brings power up to the  
16 home on the lot.

17       A     I believe the three to six months that he gave  
18 was for his work. And that would need to be completed  
19 before APS came in and installed a new underground system.

20           We would then need to work on the conversions on  
21 the individual lots and then remove the overhead  
22 facilities. And here again, I need to review the statute,  
23 but I believe we are not permitted to bill until after the  
24 removal of the overhead facilities.

25           I have no idea how long it's going to take to

1 convert all of those services. That is kind of a hang-up.

2 Q So if you had an approval in August or September,  
3 you can't give an estimate, even a rough estimate, of when  
4 assessments in the public and service costs would begin?

5 A I would have to go back and look at the  
6 man-hours. There is a provision in the statute that if a  
7 customer does not convert, we by statute have the right to  
8 disconnect them to enable us to remove the overhead  
9 facilities. And I'm not sure what the time frames of  
10 those are.

11 So I would have to go back and look at the  
12 man-hours on our job and all of those other factors to  
13 really be able to determine a projected completion and  
14 billing date.

15 MR. LORCH: Thank you. Your Honor, that is all  
16 of my questions.

17 ALJ HARPRING: Thank you, Mr. Lorch.

18 Mrs. Lorch.

19

20 CROSS-EXAMINATION

21

22 BY MRS. LORCH:

23 Q Good morning.

24 A Good morning.

25 Q Good morning, Mr. Wilson.

1           For the record I'd just like to ask a few  
2 questions.

3           Would you agree that the current system at  
4 Hillcrest Bay is antiquated?

5       A.    I think antiquated is an inappropriate term.

6       Q.    Updated?

7       A.    It's not updated. It's standard facilities. We  
8 have replacement parts for all of that stuff in stock and  
9 are using the equivalents today. So, no, it's not  
10 updated.

11       Q.    Would you agree, Mr. Wilson, that the system  
12 needs to be replaced either by overhead or undergrounding?

13       A.    The system still has a number of years  
14 individually for each piece and as a whole.

15           No, it would not be our desire to replace  
16 facilities before they have reached the end of their  
17 useful life.

18       Q.    And what is that time frame, again, just for the  
19 record?

20       A.    It varies. Some poles need to be replaced in 20  
21 years. Other last 50, 60. Same with transformers.

22       Q.    All right. Mr. Wilson, is part of the decision  
23 for APS to replace our system to reduce or eliminate or  
24 also reduce or eliminate safety issues, which you  
25 testified on July 18th of 2008 when I asked you the

1 question, I believe?

2 A. I don't recall my specific testimony.

3 Q. Okay.

4 A. To my knowledge, there are no current safety  
5 issues up there.

6 Q. No current safety. But it wouldn't reduce -- are  
7 you saying it wouldn't reduce the -- or reduce the safety  
8 issues that we have up there? Maybe not eliminate them  
9 but reduce them?

10 A. I'm not sure I know how to answer that question.

11 Q. So is it a no answer or I don't know answer?

12 MR. METLI: Your Honor, the witness answered the  
13 question. He said there were no safety issues.

14 MRS. LORCH: But he -- I asked the question.

15 There were two questions, one that had to do with  
16 elimination of safety issues, and the other question had  
17 to do with the reduction of safety issues.

18 THE WITNESS: Well, if there are no safety  
19 issues, there is no reduction.

20 Q. BY MRS. LORCH: All right. Do you believe --  
21 would you agree, Mr. Wilson, that our area has extreme  
22 weather -- wind and sun -- exposure conditions?

23 A. I would say it's typical of the southwest desert.

24 ALJ HARPRING: Mrs. Lorch, maybe it would help if  
25 you told him what you mean by extreme or if you break it

1 down into pieces.

2 MRS. LORCH: Well, the extreme is that  
3 recently -- I don't know if it was six months ago or a  
4 year ago -- there was a pole that actually fell because of  
5 the extreme weather conditions.

6 ALJ HARPRING: Are you talking about the pole  
7 that fell prior to the hearing in this case previously?

8 MRS. LORCH: I believe so. I'm not certain when  
9 that was.

10 ALJ HARPRING: Would you like -- I think we  
11 already have testimony about this in the old transcript,  
12 but would you like to ask him for his opinion about why  
13 the pole fell?

14 Q. BY MRS. LORCH: Yes. Why did the pole fall?

15 A. It's my understanding that the down guy failed.  
16 That pole had about a 90-degree angle pole. It has heavy  
17 telephone cable on it and mechanically was not able to  
18 support that without the down guy.

19 So it was not the pole that failed; it was the  
20 down guy.

21 Q. And can you explain what that means, because I'm  
22 not certain I understand what a down guy is?

23 A. On a pole when you have unbalanced forces, you  
24 have wire going one way, you will -- and you don't have  
25 any wire going the other way, you will put an anchor in the

1 ground and you tie the pole down to that to balance that  
2 force.

3 Q I see.

4 ALJ HARPRING: Okay. Let the record show that  
5 Mr. Wilson has held his hand up vertically straight and  
6 has made a gesture indicating that the down guy is at an  
7 angle --

8 THE WITNESS: Roughly 45 degrees.

9 ALJ HARPRING: -- from approximately 45 degree  
10 from the plane from which his hand is standing up  
11 straight.

12 Q BY MRS. LORCH: If the undergrounding does not go  
13 through, what is the time frame for the overhead system  
14 and how will it be completed? All at once or on an  
15 as-needed basis?

16 A I believe I already talked about that, but it  
17 would be as needed.

18 Q It's unclear.

19 A As needed and based on most appropriate costs and  
20 reliability at that time.

21 Q Okay. And I believe you had testified to this,  
22 but I just want to make sure I understand it.

23 Per the plans, all right, which were talked about  
24 here, and also on cross-examination, per the plans, how  
25 many poles will there be in the community put into place

1 by APS?

2 A. Well, here again --

3 MR. METLI: Your Honor, I'm sorry. When she says  
4 the plan, is she referring to Exhibit A-12?

5 ALJ HARPRING: Is that what you are referring to?

6 MRS. LORCH: Yes. That is what I'm referring to.

7 ALJ HARPRING: Thank you, Mr. Metli.

8 THE WITNESS: And not to convey our intent to go  
9 in and put in this many poles, but if we were to execute  
10 the plan as shown in the exhibit, I believe there are 42  
11 additional poles on that plan.

12 Q. BY MRS. LORCH: I think I have -- oh, another  
13 question: To your knowledge, will the existing poles that  
14 remain for use -- well, will the existing poles remain for  
15 use by Verizon?

16 A. That would be their option. I can't speak to  
17 what they would ultimately do.

18 Q. So I would have to ask that question of Verizon  
19 then.

20 My last question is: On July 18, 2008 APS was  
21 110 percent in favor of this project provided by  
22 significant and supportive evidence. I was in the room  
23 and heard you say that you were in favor of this project.

24 MR. METLI: Your Honor, I'm going to object. It  
25 assumes facts not in evidence and --



1 ALJ HARPRING: He is making an objection.

2 MR. METLI: I'm making an objection.

3 If Mrs. Lorch is going to reference a  
4 conversation she had with Mr. Wilson personally, she can  
5 certainly ask Mr. Wilson's personal opinion, but to say  
6 that APS was 110 percent, there is no foundation.

7 MRS. LORCH: Then I will ask it another way.

8 ALJ HARPRING: Please go ahead.

9 Q BY MRS. LORCH: On July 18, 2008 APS was in favor  
10 of the project and provided evidence to -- on that day.

11 Today, or yesterday, actually, APS has stated  
12 they want the project dismissed.

13 I want to know, from your point of view,  
14 Mr. Wilson, what specifically has changed? Can you give  
15 me two sentences? What specifically has changed?

16 MR. METLI: Before you answer, the same  
17 objection, Your Honor. There is no foundation that APS  
18 supported this application.

19 ALJ HARPRING: I myself am actually confused,  
20 Mrs. Lorch, by the dates you are using.

21 What proceeding are you referring to?

22 MRS. LORCH: It was July 18th when I heard  
23 testimony by APS. I believe it was July 18th. Maybe it  
24 was July during the Commission --

25 ALJ HARPRING: What was the setting? Was it the

1 open meeting when all the commissioners were up here?

2 MRS. LORCH: Maybe the open meeting.

3 ALJ HARPRING: That was July 1st of 2008.

4 MRS. LORCH: I put down July 1st. Maybe it was  
5 July 18th. I can say on or about July 2008.

6 ALJ HARPRING: Okay. You are recalling that at  
7 the open meeting on July 1st, 2008 Mr. Wilson expressed  
8 support for the project.

9 MRS. LORCH: Yes.

10 ALJ HARPRING: So why don't you ask him if he  
11 recalls doing that, and then go from there.

12 Q BY MRS. LORCH: All right. Do you recall,  
13 Mr. Wilson, on or about July 1st or the 18th that APS  
14 supported this project?

15 A I don't recall that particular statement. I  
16 guess APS's position on this is that it's a  
17 customer-driven request. We have provided all of the  
18 information that we are required to provide, and it's not  
19 our decision or our place to be in favor or opposed to it.

20 Q I didn't say in favor. I said support.

21 A Support.

22 Q So you are saying that there was no support by  
23 APS for this project; is that your testimony?

24 MR. METLI: Objection; Your Honor. That is  
25 misstating his testimony. What he is saying is we haven't

1 taken a position on it.

2 MRS. LORCH: Well, I believe I heard the attorney  
3 say that it was -- that it was their position that they  
4 wanted the project dismissed yesterday.

5 Is that not correct?

6 ALJ HARPRING: You did hear that -- or at least I  
7 did hear that, so I would assume that you also heard that.

8 But what question do you have right now for --

9 MRS. LORCH: Well, I just wanted to know if they  
10 were in support, and now they are saying they want it  
11 dismissed. I want to know specifically from Mr. Wilson  
12 what has changed.

13 ALJ HARPRING: Okay. Why don't you ask him what  
14 has changed.

15 Q BY MRS. LORCH: What changed, Mr. Wilson?

16 A Well, I think the issue you are talking about is  
17 in the briefs that were filed expressing an opinion -- the  
18 attorneys expressing an opinion on point of law related to  
19 withdrawals, signatures, and other matters related to the  
20 petitions.

21 Q And what do you mean by other matters? I'm not  
22 clear.

23 A I'm not sure what I meant without going back and  
24 looking at what the Commission requested and what the  
25 briefs were filed. I think you are getting way beyond my

1 legal expertise as far as those issues.

2 MRS. LORCH: Thank you.

3 ALJ HARPRING: Mr. Wilson, you are not an  
4 attorney; correct?

5 THE WITNESS: No, I'm not.

6 MRS. LORCH: Thank you.

7 ALJ HARPRING: Thank you, Mrs. Lorch.

8 Mr. Nelson.

9 And let the record show that Mr. Bond is now  
10 present; right?

11 MR. BOND: Yes, ma'am.

12

13 CROSS-EXAMINATION

14

15 BY MR. NELSON:

16 Q Good morning. My name is Ron Nelson.

17 Well, I have a lot of questions here.

18 You, Mr. D.L. Wilson, have you ever taken an oath  
19 given to you by a state or a county or a city stating that  
20 you would not, as an executive of APS, do any harm to a  
21 community, person or an individual or a community or a --

22 ALJ HARPRING: Mr. Nelson, before APS even goes  
23 there, because that is where they are going, what are you  
24 trying to get at?

25 MR. WILSON: I'm asking him -- I guess I think

1 this underground would do Hillcrest Bay harm.

2 ALJ HARPRING: Okay. Are you trying to find out  
3 if there is sort of the equivalent of a Hippocratic oath  
4 for a utility employee?

5 MR. NELSON: Yes, thank you.

6 ALJ HARPRING: You can ask him that.

7 Could you answer that question, Mr. Wilson? Is  
8 there a requirement for a utility representative to take  
9 any kind of an oath not to do any harm to the public or  
10 customers of the utility?

11 Q. BY MR. NELSON: Unnecessary harm.

12 A. No, no such oath.

13 Q. Has Verizon -- I'm going to have a hard time  
14 coming up with a word -- Verizon as a company, have they  
15 signed a written document or taken a verbal oath of some  
16 kind for the --

17 ALJ HARPRING: Since Mr. Wilson works for APS, I  
18 think that probably it would be more appropriate for you  
19 to address Verizon questions --

20 MR. NELSON: I was talking APS. I may have said  
21 Verizon by mistake.

22 ALJ HARPRING: Okay. Go ahead.

23 Q. BY MR. NELSON: As a utility company, does  
24 Verizon itself, as a chartered company, is there anything  
25 in their charter that asks them not to harm unnecessarily

1 any property?

2 MR. SABO: Objection; Your Honor --

3 MR. NELSON: Hypothetical or whatever that word  
4 was.

5 ALJ HARPRING: Mr. Sabo.

6 MR. SABO: In terms of foundation, it hasn't been  
7 established that the witness has any knowledge of the  
8 corporate charter of either APS or Verizon. In addition,  
9 it really seems like it calls for a legal conclusion as to  
10 the duties of public service corporations.

11 ALJ HARPRING: Thank you, Mr. Sabo.

12 Sustained.

13 Mr. Nelson, he has already stated that he  
14 personally didn't take an oath, and there is -- do you  
15 have more questioning along these lines or --

16 MR. NELSON: I can drop that.

17 ALJ HARPRING: Okay. I would go to fact-specific  
18 inquiries of things that Mr. Wilson is actually going to  
19 be aware of himself.

20 Q BY MR. NELSON: Mr. Wilson, are you here  
21 originally because existing power poles are no longer  
22 accessible?

23 A Am I here?

24 Q Are we trying to get the underground  
25 conversion -- you know what I mean?

1 ALJ HARPRING: I will interrupt you again.

2 I think that maybe you have two questions for  
3 him. It sounds like one of the questions is, are the  
4 power poles inaccessible?

5 Q. BY MR. NELSON: Are the power poles accessible  
6 now?

7 A. Some are and some aren't, and it kind of means  
8 what you mean by accessible. Because we can replace any  
9 of those poles or transformers if we need to, but it's a  
10 matter of getting equipment to them. We may have to  
11 hand-dig holes and bring a crane from Yuma or Phoenix to  
12 move transformers from the street to the location.

13 Q. So you could replace the poles where they are  
14 now?

15 A. Yes.

16 ALJ HARPRING: Okay.

17 THE WITNESS: And, Mr. Nelson, did you also --  
18 did you actually need to ask him why we are here today or  
19 why he is here?

20 MR. NELSON: Yeah. Maybe I can get to that later  
21 with another question.

22 ALJ HARPRING: Okay.

23 Q. BY MR. NELSON: How are -- assuming that we take  
24 the power to an overhead system in front of the  
25 properties, how are you going to connect from the street

1 to the existing meters on many of the mobile homes there  
2 now?

3 A. That will need to be individually addressed as we  
4 did with looking at the undergrounding. And that would be  
5 a factor on the decision of where future facilities go.

6 Q. So the -- I don't know what document it is -- but  
7 there is a plan showing possible positions of the alleged  
8 42 poles.

9 That is not in stone? The position of the poles  
10 on that plan are not necessarily in stone? They can be  
11 moved around?

12 A. I would say, no, they are not set in stone. That  
13 plan was drawn up over two years ago. You know, there has  
14 been new homes, changes in driveways. It needs to be a  
15 flexible plan.

16 Q. But could there possibly be more poles added?

17 A. Yes, possibly.

18 Q. Would there possibly be more poles added onto the  
19 properties themselves, excluding the 42 poles that we are  
20 talking about on this additional main line poles? Would  
21 there be additional poles put to the back of other  
22 properties to support a connection to existing meters?

23 A. Possibly. Those poles would require permission  
24 from the property owner.

25 Q. Who would pay for those costs?



1       A.     It would depend on what is driving the  
2 relocation.  If a customer were to -- based on our current  
3 exception policy, if we were connecting to a new customer  
4 and that forced a change in someone else's service, under  
5 our current extension policy the new customer is obligated  
6 to pay full cost for that new project.

7       Q.     To the people that already live there, would  
8 there be a cost?

9       A.     To the people that already live there, no.

10      Q.     There could be an additional pole added to the  
11 back of that property, though; is that correct?

12      A.     It would need to be located in an easement or  
13 with their permission on their property.

14      Q.     Suppose they didn't give you permission, what  
15 would you do?

16      A.     We would have to find another route.

17      Q.     Thank you.

18             Have you ever had any conversations -- let me  
19 turn back here.

20             Okay.  Let's go on here.  Were you at our last  
21 Hillcrest Bay meeting in September?  The annual meeting,  
22 were you there?

23      A.     This last September?

24      Q.     Our annual meeting where you were grilled?

25      A.     I think that was the last one I was at, yes.

1       Q.     Was the representative with Tades there at the  
2 same time?

3       A.     I believe he was, yes.

4       Q.     Did you have any conversations about whether or  
5 not he was going to be approved for this project or not at  
6 that time?

7       A.     I don't specifically recall.

8       Q.     Have you had any conversations with him from then  
9 until now about whether or not -- where his approval  
10 stands in order to proceed with this project?

11      A.     No, I have not.

12      Q.     Is anybody at the APS office job to pursue  
13 contact with possible contractors or is that just all on  
14 the contractor?

15      A.     It's an obligation to a contractor if he is  
16 interested in doing work for APS.

17      Q.     So you have pretty much no -- or APS has no  
18 responsibility to follow up on possible contractors?

19      A.     I would say no.

20      Q.     Have you changed your position that the original  
21 start of this underground conversion -- have you changed  
22 your position as far as how you would approach the  
23 transition -- this is really hard to ask -- let me lay  
24 some groundwork.

25             I believe that we have had a conversation, me and

1 you, about if we don't go underground that APS is going to  
2 come down, start at one point and replace or install all  
3 new power poles in the middle or down the streets if we  
4 don't go underground service.

5 If we do not -- did I say that right? Does that  
6 make sense?

7 MR. METLI: Well, Your Honor, I will object.  
8 There is no foundation. He hasn't established that they  
9 had a conversation. Maybe he should establish that first,  
10 and then establish possibly a position and then possibly  
11 establish a change in position.

12 ALJ HARPRING: I think Mr. Metli has given you a  
13 very good road map.

14 Q. BY MR. NELSON: Thank you. Have we ever had a  
15 conversation about how we were going to proceed with new  
16 power poles?

17 A. I believe so.

18 Q. Did it entail about starting at the top and  
19 working your way down all in one fell swoop with new power  
20 poles?

21 A. I don't think I stated that we were going to for  
22 sure.

23 Q. Are you in daily contact or semi-daily contact  
24 with your inspectors, such as, I believe, Sanchez was one  
25 of them? And I could be wrong about Sanchez. I think he

1 has retired since a couple years ago. An older gentleman,  
2 a nice guy, or a Mr. Pike?

3 A. I'm not sure who you are referring to. I have a  
4 Pike Smith that works in my office as a customer service  
5 representative.

6 Q. That would be one person. And your inspector  
7 was, I believe, a Mr. Sanchez?

8 A. You mentioned retired, which I think is probably  
9 Doug McDonald.

10 Q. No. It wasn't Doug McDonald. It was an Hispanic  
11 last name. I have lost their business card.

12 A. Did he do similar work to -- maybe I shouldn't be  
13 asking questions.

14 Q. If I'm rambling, it is for a purpose.

15 ALJ HARPRING: You know, just for the sake of  
16 clearing up the record, Mr. Wilson, go ahead and ask him  
17 the question.

18 THE WITNESS: Did the person you are referring  
19 to, did he do similar work to what Pike does?

20 Q. BY MR. NELSON: Yes.

21 A. Would it be Louie Peria?

22 Q. That sounds --

23 A. Okay.

24 Q. Did you ever have conversations with them about  
25 starting at one point and working your way down in one

1 fell swoop to put in power poles? Have you ever had  
2 considerations with those people about that?

3 A. I don't believe so.

4 Q. Can I at this time say what conversations I had  
5 with them or do I have to wait for out there?

6 ALJ HARPRING: Unless you are going to be asking  
7 Mr. Wilson something related to that, you need to save  
8 that until it's your time to talk.

9 Q. BY MR. WILSON: Okay. I will.

10 I will go back to this. Has APS tried to find  
11 any money through the moneys given out by the federal  
12 government for infrastructure?

13 A. In --

14 ALJ HARPRING: I'm sorry. That is a very, very  
15 broad question.

16 Did you mean specifically to help fund  
17 infrastructure of underground conversion at Hillcrest Bay?

18 Q. BY MR. WILSON: Yes.

19 A. No, I don't believe we have.

20 Q. Would you try to find out if there is any?

21 MR. MUMAW: Your Honor, I have tried to go  
22 through this entire proceeding without saying anything,  
23 but I do know that the company has filed with the  
24 Commission a letter in response to an inquiry by the  
25 chairman as to whether federal stimulus funds were

1 available for undergrounding. In this case it was for a  
2 different community, but I guess for the record I'd like  
3 to indicate that that response noted that federal stimulus  
4 money is not available for this purpose.

5 ALJ HARPRING: Mr. Mumaw, do you have a copy of  
6 that?

7 MR. MUMAW: I do not have a copy if it. I can  
8 probably get one during the luncheon recess.

9 ALJ HARPRING: That would be helpful. I don't  
10 recall that. I would appreciate that. Was it filed in  
11 this docket?

12 MR. MUMAW: It was with regard to the Whispering  
13 Ranch.

14 ALJ HARPRING: Okay.

15 MR. MUMAW: But it would be the same issue, Your  
16 Honor.

17 MR. WILSON: Was that something that recently  
18 happened?

19 ALJ HARPRING: When was that?

20 MR. MUMAW: It was this past spring. I can't  
21 remember exactly when.

22 ALJ HARPRING: So that is relatively recent.

23 MR. MUMAW: Yes. It was obviously after the  
24 stimulus package had been enacted in February. So it's  
25 between February and now. I don't remember exactly when.

1 ALJ HARPRING: So I would like that to be  
2 provided this afternoon.

3 MR. MUMAW: Sure. Thank you. We will get that  
4 during the lunch hour.

5 ALJ HARPRING: Go ahead, Mr. Nelson.

6 MR. NELSON: That is it, ma'am -- Your Honor.

7 Excuse me.

8 ALJ HARPRING: Okay. Lynne Muzic.

9

10 CROSS-EXAMINATION

11

12 BY MS. LYNNE MUZIC:

13 Q. Good morning.

14 A. Good morning.

15 Q. I am Lynne Muzic, and we own -- my husband and I  
16 own 14 -- excuse me -- lot 15. And I know you didn't do  
17 the cost estimate. I know it came from Mr. Edgards' -- is  
18 that the gentleman's name? But I do have a question and  
19 it pertains to what Staff asked about.

20 In the private property electrical, my  
21 sister-in-law, Joy Muzic, they have her down here as being  
22 charged \$700. They have my husband and I being charged  
23 \$3,317.50 for the exact same thing. Our lots are the  
24 same. It's supposed to go by square footage, I guess, is  
25 my understanding. That is \$2,617.50 more.

1 I don't understand what that is all about.

2 ALJ HARPRING: Could you explain which document  
3 you are looking at?

4 Q BY MS. LYNNE MUZIC: It's the cost estimate that  
5 came -- I guess, it's from Mr. Edgars. I'm not positive.  
6 It's dated down here UCSA project dated May 7, 2009. It's  
7 what we got in the mail recently actually.

8 ALJ HARPRING: Was it something that was provided  
9 by Hillcrest Bay, Inc., HBI?

10 MS. LYNNE MUZIC: Yeah, I think so.

11 ALJ HARPRING: Okay.

12 MS. LYNNE MUZIC: I'm trying to see. Let me see.

13 I'm not really certain. But on it it has on here  
14 the parcel number, owner names, and then it has square  
15 footage. It's broken down into the financial utilities up  
16 to the 15 years, and then it is broken down into private.

17 THE WITNESS: If I may, that appears to be  
18 attachment 5 of Exhibit H-5.

19 ALJ HARPRING: H-5, okay.

20 MS. LYNNE MUZIC: I am sorry. I didn't bring my  
21 cover.

22 MR. METLI: Your Honor, and given the fact that  
23 that is the Tades estimate, that question regarding the  
24 cost should be directed to Tades.

25 ALJ HARPRING: Yeah.



1 Mr. Metli is correct. This is not actually a  
2 document that was prepared by APS and Verizon.

3 MS. LYNNE MUZIC: Okay.

4 ALJ HARPRING: Well, let me just make sure that  
5 we are looking at the same thing.

6 Is this a document that has at the very top  
7 "Financed by utility up to 15 years" as one broad column,  
8 and then "property owner responsibility" is the other?

9 MS. LYNNE MUZIC: Right. Right. The column I'm  
10 referring to is private property electrical, which is the  
11 fourth one from the right, backing it up. And if you go  
12 down to lot 14 and 15, you will see Joy Muzic has \$700 and  
13 I have \$3,317.50.

14 ALJ HARPRING: Right. This document was not  
15 prepared by APS or Verizon, so Mr. Wilson is not going to  
16 be able to answer questions about it.

17 MS. LYNNE MUZIC: Okay. All right. Thank you.

18 Q BY MS. LYNNE MUZIC: The other question I had  
19 referred to the 42 poles, and I hope I didn't miss it in  
20 the testimony.

21 But these 42 poles, are they going to be just put  
22 in all at once? Is it going to be that as the poles  
23 deteriorate -- because I know you said some have  
24 deteriorated or will in the future -- or is that going to  
25 be on a replacement basis?

1 MR. SABO: Objection, Your Honor. This has been  
2 asked and answered several times.

3 ALJ HARPRING: It has. As I recall, and  
4 Mr. Wilson -- I will let Mr. Wilson either agree with me  
5 or correct me.

6 As I recall, Mr. Wilson has stated that it's his  
7 understanding that the poles will not be put in in one  
8 fell swoop; that they would be put in as needed.

9 THE WITNESS: That's correct.

10 MS. LYNNE MUZIC: Okay. Thank you very much.

11 ALJ HARPRING: Joy Muzic.

12

13

CROSS-EXAMINATION

14

15 BY MS. JOY MUZIC:

16 Q Good morning.

17 A Good morning.

18 Q I just have a question, and it goes back to some  
19 issues about petitions.

20 I would like clarification on the petitions that  
21 were -- the first petition that was filed in this Arizona  
22 Corporation Commission to initiate this project. My  
23 recollection of the petition was, number one, we had in  
24 Hillcrest Bay that dealt with the County and to find the  
25 costs. That was in '05, '06. The County did verify the

1 issues and verify that those signatures were there.

2 My second, or I believe -- and I don't know if  
3 you can answer for me -- the second petition that was  
4 given to you was from Hillcrest Bay, Inc., to get a refund  
5 of our \$28,000, in reference to that County issue.

6 Am I correct in that statement?

7 A. Not exactly.

8 Q. Okay. Can you clarify that for me, please?

9 A. The first petition you are referring to, which  
10 APS and Verizon were not involved with, to my knowledge,  
11 was a petition to form an improvement district under the  
12 county jurisdiction for the undergrounding of the  
13 facilities. There were some problems with the statute  
14 that was used for that, and it did not apply to Hillcrest  
15 Bay.

16 The next petition which you are referring to,  
17 which prompted the refund of the \$28,000, was per the  
18 statute that we are currently here under -- it would be  
19 called the first petition in this matter -- and that was  
20 to request that APS and Verizon prepare a joint report  
21 indicating the cost for each property owner for the  
22 project.

23 Q. I understand what you are saying.

24 So the second petition that is filed with the  
25 Corporation is what initiated this project?

1 MR. METLI: Objection, Your Honor. That is not  
2 his testimony. The second petition, he is referencing it  
3 as the first petition.

4 As Your Honor knows, the petitions were filed as  
5 part of the application. So they were filed, and I would  
6 think she will get to the third one.

7 Q BY MS. JOY MUZIC: I guess that is why I need  
8 that clarification because -- if I can just help you or  
9 maybe Mr. Wilson.

10 ALJ HARPRING: Ms. Muzic, I would suggest that we  
11 allow Mr. Wilson to explain to you what he considers to be  
12 the second petition since he has now told you what he  
13 thinks -- what he is calling the first petition in this  
14 matter.

15 MS. JOY MUZIC: That is what I need to know. Go  
16 ahead. I'm sorry.

17 ALJ HARPRING: That's okay.

18 THE WITNESS: What you are referring to as the  
19 first petition was the improvement district petition.

20 The second petition you are referring to was the  
21 first petition for the underground conversion service area  
22 under the statute that we are currently here under. And  
23 that was the one -- and we call it the cost request  
24 petition, if you would like.

25 Then there was another petition, which was -- I

1 think you are referring to as the third petition, which  
2 was completed after the cost -- the joint report was  
3 provided to the residents. And that would be the petition  
4 to proceed with our request to the Commission.

5 Q. BY MS. JOY MUZIC: That is the petition that I am  
6 trying to clarify, if that is the one that is on file  
7 today as -- the third petition is the one to start this  
8 procedure?

9 A. Yes. The third petition would be the one that  
10 mandated we file with the Commission requesting the  
11 formation of the underground district.

12 Q. Just for clarification, how was that verified; or  
13 do you know?

14 A. The petitions that I was involved in were  
15 processed in the same manner that the County processes  
16 petitions for an improvement district, in that once they  
17 were received back, they were given to the County for  
18 verification and then returned to APS where we did the  
19 tabulation. And then they were filed with the Commission  
20 along with the rest of the documentation.

21 Q. Do you recall what year that you presented those  
22 petitions to the County for verification?

23 A. I would have to go back and look at  
24 documentation.

25 Q. Okay.

1           A.     It would have been 2007, I would think.

2           Q.     2007. If I may say something to the effect to  
3 maybe do that, because I think, if you recall, Mr. Wilson,  
4 I have spoke to you in reference to the verification of  
5 these petitions and where they were. I was trying to  
6 locate the petitions.

7           ALJ HARPRING: Okay. You really -- you have to  
8 ask him a question.

9           Q.     BY MS. JOY MUZIC: Okay. Do you know who gave  
10 those petitions to the County for verification?

11          A.     I did.

12          Q.     You did?

13          MS. JOY MUZIC: Thank you.

14          ALJ HARPRING: Mr. Dodson.

15

16                                   CROSS-EXAMINATION

17

18 BY MR. DODSON:

19          Q.     It's still morning. Good morning.

20          A.     Good morning.

21          Q.     Mr. Wilson, if the underground were to go  
22 through, would our service improve over what we now have?

23          A.     I think there was testimony given that we would  
24 not anticipate any improvements in reliability based on  
25 the undergrounding of the facilities.

1 Q So basically then the only improvement or the few  
2 would be aesthetic or they would have a better view?

3 ALJ HARPRING: Are you asking Mr. Wilson a  
4 question?

5 Q BY MR. DODSON: Yes. In other words, we are not  
6 going to get better service.

7 So what benefit is there to going underground?

8 A I don't think that's for me to answer.

9 ALJ HARPRING: If you want to ask him whether  
10 there are any other benefits --

11 Q BY MR. DODSON: Are there any other benefits --

12 ALJ HARPRING: -- related to APS's service, that  
13 would be a valid question for him.

14 THE WITNESS: Directly related to APS service, if  
15 the undergrounding were to proceed, the only other  
16 advantage I would foresee is the abandonment of some  
17 easements that exist on the back of the lots.

18 MR. DODSON: Okay. Thank you.

19 ALJ HARPRING: I'm going to butt in here because  
20 I didn't quite understand the answer.

21 Do you mean that the easements would be  
22 eliminated?

23 THE WITNESS: The easements that are required for  
24 the rear lot overhead facilities would no longer be used  
25 once those facilities are removed and therefore could be

1 abandoned.

2 ALJ HARPRING: Okay. That is the clarification I  
3 was looking for.

4 Ms. Wilson.

5

6 CROSS-EXAMINATION

7

8 BY MS. WILSON-KAWAGOYE:

9 Q. Good morning, Mr. Wilson.

10 A. Good morning.

11 Q. My questions are: You have brought service to  
12 Hillcrest Bay for the last 37 years; is that correct?

13 A. APS, yes.

14 Q. And you entered into an agreement to do that even  
15 if there was one customer there; wouldn't that be so?

16 A. We have an obligation to serve. I'm not sure  
17 what you mean by entering into an agreement with an  
18 individual customer.

19 Q. I mean, as long as there is a customer there, you  
20 would bring them power?

21 A. Yes.

22 Q. And we have anywhere from 47 to 51 full-time  
23 residents using it at any given time.

24 You stated in your --

25 MR. METLI: Objection, Your Honor.



1 ALJ HARPRING: Actually that assumes a fact that  
2 is not in evidence.

3 Were you asking for Mr. Wilson to tell you  
4 whether that is true or not or was that just a comment in  
5 passing?

6 MS. WILSON-KAWAGOYE: That was a comment, the  
7 full-time residents of Hillcrest Bay that require  
8 year-round service.

9 ALJ HARPRING: And that has not been established.  
10 So were you going to ask Mr. Wilson whether -- if  
11 he is aware of that?

12 MS. WILSON-KAWAGOYE: No. That was my comment.

13 ALJ HARPRING: Well, then, we will disregard that  
14 since it assumes facts not in evidence.

15 Q MS. WILSON-KAWAGOYE: Okay. On your Exhibit H-13  
16 late filed February 19, 2008, and you listed the following  
17 as a summary of the repairs to Hillcrest Bay service area  
18 within the past two years.

19 MR. METLI: Your Honor, before we go any further,  
20 can we locate that document so Mr. Wilson can have a copy?

21 ALJ HARPRING: Sure.

22 Could you identify it again?

23 Q BY MS. WILSON-KAWAGOYE: It is Hillcrest Bay  
24 underground conversion service area late-filed exhibits,  
25 February 19, 2008, Exhibit A-13?

1 ALJ HARPRING: A-13?

2 MS. WILSON-KAWAGOYE: A-13, page 8.

3 THE WITNESS: I have a copy of that, the  
4 documentation provided by Mr. Sabo. Thank you.

5 ALJ HARPRING: Okay. I think we are all on the  
6 same page.

7 Q BY MS. WILSON-KAWAGOYE: It says on January 7,  
8 2006 the company repaired the fence fabric at Buckskin  
9 Substation.

10 Number two, on July 28, 2006, the company  
11 repaired an oil leak on Buckskin substation transformer  
12 decker.

13 On October 9, 2006, the company replaced a  
14 leaking 75 kVA OH transformer; to repair the OH  
15 transformer a crane was needed.

16 On October 5, 2007, the company replaced a broken  
17 pole and down guy. And there was no reason for it to fall  
18 down. There was no hit or no wind or weather. It just  
19 fell down.

20 MR. METLI: Your Honor, I'm going -- two  
21 objections: Number one, she is testifying; number two, I  
22 don't know if she has a question for Mr. Wilson.

23 ALJ HARPRING: Right. Well, they are related,  
24 aren't they?

25 I need to ask you please to refrain from making

1 statements that are unrelated to the actual question that  
2 you want to ask. You really need to ask the witness  
3 questions.

4 So I will tell you exactly what I told Mr. Sabo  
5 earlier, please -- well, I'm going to paraphrase because I  
6 don't remember exactly what I said.

7 Please try to refrain from making editorial  
8 remarks. Okay? If you need to build up to a question,  
9 give background for it, just tell us ahead of time, I'm  
10 laying the groundwork for my question. But you need to  
11 ask him questions because that is why you are up here  
12 right now. Okay?

13 Q. BY MS. WILSON-KAWAGOYE: In the last 37 years,  
14 Mr. Wilson, have these been the only four instances that  
15 have had to be repaired in Hillcrest Bay?

16 A. I strongly doubt that these are the only four.  
17 We were requested to provide information in the past  
18 two years, and these were the instances we had  
19 documentation on for that time.

20 Q. Would it possible for me to get the whole file  
21 from the last 37 years of things going wrong at Hillcrest  
22 Bay or reports made?

23 A. Probably not because we are not required to keep  
24 documentation of that sort for that extended period of  
25 time.

1       Q.     Okay. How long are you able to keep  
2 documentation?

3       A.     I believe on maintenance and repairs it's seven  
4 years.

5       Q.     Okay.

6       A.     I'm not positive. I would need to check our  
7 document retention policy.

8       Q.     Okay. If we vote against this underground and  
9 people complained about the wires that are too low and  
10 cause harm to their property or impact their view or cause  
11 harm to their property, would that be addressed  
12 individually or the view cleaned up at all instead of just  
13 one per house? If people complained on a regular basis,  
14 individual people, how would that be handled?

15      A.     On an individual basis.

16      Q.     Okay. And this is all your equipment. APS would  
17 be the one to do this, your employees and your company?

18      A.     For electrical facilities within the subdivision,  
19 yes.

20      Q.     Yes. Okay. And at your cost?

21      A.     If the customer is requesting that we move  
22 facilities?

23      Q.     No. I'm not talking about removing. I'm talking  
24 about repairing.

25             There is no reason for -- they could get hurt or

1 like Mr. Tades said, grab a 7400-volt wire that would be  
2 too close.

3 A. Once again, as I previously stated, there are, to  
4 my knowledge, no public safety hazards, which means those  
5 wires currently have vertical and horizontal clearance  
6 that is that required by OSHA.

7 So if a customer requests that we move some of  
8 those wires, it would be a customer expense. If they are,  
9 in fact, broken or facilities need maintenance or  
10 clearance violations, then those would be done at APS's  
11 expense.

12 Q. Mr. Wilson, his 36 properties and utilities lines  
13 were hanging over backyards as obviously safety issues and  
14 environmental issues --

15 MR. METLI: I'm going to object, Your Honor. I  
16 don't know what she's referencing, 36. Can she lay  
17 foundation?

18 ALJ HARPRING: As I recall, HBI has provided  
19 testimony -- or it may have been in their brief -- in any  
20 event, they have put out there that there are 36  
21 properties with lines that are hanging over the yards, and  
22 it seems to be related to the bird excrement issue.

23 I asked for a late-filed exhibit on that, but, of  
24 course, we don't have it yet. So currently we don't know  
25 which 36 yards they are asserting have lines hanging over

1    them.

2                   Does that help?

3                   MR. METLI:   That is fine.

4                   ALJ HARPRING:  Go ahead, Ms. Wilson.

5        *Q.*    BY MS. WILSON-KAWAGOYE:  And if you recall on  
6   those 36 properties -- and some of them may have it and  
7   may not have something to be addressed -- would that be  
8   your cost to fix that problem if it was decided it was a  
9   problem?

10       *A.*    Most of those facilities are located in utility  
11   easements, and if there are permanent structures  
12   encroaching in those easements, then either the structure  
13   would need to be removed or relocate the APS facilities at  
14   customer expense.

15       *Q.*    Well, anything that would be caused, that ended  
16   up in your expense, it would never -- you would still  
17   remain to be overhead; you would never consider going  
18   underground for your utilities, if it was even less  
19   expensive than maintaining this overhead service?

20       *A.*    Well, never is an all-inclusive term that I try  
21   never to use.

22       *Q.*    Understand.  Understand.  I heard somebody has  
23   underground, maybe it was two houses, at a time.  I don't  
24   know.

25       *A.*    I think the appropriate answer to that question

1 is that when we need to relocate, move or build something,  
2 one of the obligations we have is to do it in a cost  
3 effective and reliable manner. So excluding underground  
4 from that consideration is not appropriate.

5 Typically underground is not the winner in that  
6 consideration.

7 Q Okay. And for seven years, I find out the  
8 seven years -- how would I request that? Would I call  
9 your office? Who would I call at your office to get a  
10 copy of the last seven years of any reports filed  
11 regarding concerns or anything about properties in  
12 Hillcrest Bay over the APS service?

13 A You can request that through my office.

14 MR. METLI: Your Honor, I will interject. I  
15 think that is an unreasonable burden to go back and get  
16 seven years of documentation.

17 ALJ HARPRING: Well, you are not talking about  
18 making that an exhibit in this case, are you, Ms. Wilson?  
19 Or is that just information you would like to have for  
20 your purposes?

21 MS. WILSON-KAWAGOYE: Well, I have six years of  
22 my bills I paid, but I wanted to know where I would go. I  
23 have been trying to get that information since I started  
24 researching this case.

25 ALJ HARPRING: But you didn't intend to offer

1 that information as evidence in the case?

2 MS. WILSON-KAWAGOYE: Well, I was just inquiring  
3 about the complaints and who would pay for them and how  
4 they would be issued and what -- how it would be declared  
5 who was responsible.

6 ALJ HARPRING: Okay. Well, we have addressed, I  
7 think, the repair issue and the movement of lines and  
8 poles issue, depending on who asks for it, who causes it  
9 to happen.

10 But what I'm trying to find out from you is  
11 whether you are interested in this repair/replacement  
12 information for the past seven years or more because you  
13 want that to become evidence in this case, those records,  
14 or just because you are a customer and you live there and  
15 you are interested.

16 So which one is it?

17 MS. WILSON-KAWAGOYE: I would -- it would be my  
18 desire, because they are a public utility, and it's your  
19 property, that you pay for the underground.

20 ALJ HARPRING: But I asked you a question, and I  
21 really do need for you to answer it.

22 Did you want to have those records provided so  
23 that they could be entered as evidence in this case or is  
24 that just something that you want to have for your own  
25 private purposes?



1 MS. WILSON-KAWAGOYE: Well, no. I would like to  
2 enter it into the case.

3 ALJ HARPRING: Okay. Is it possible for APS to  
4 provide the repair and replacement records for Hillcrest  
5 Bay for the past seven years?

6 MR. METLI: Well, certainly it's possible. One,  
7 I don't know if -- I would object to the relevance and  
8 whether it has probative value.

9 And I guess, Mr. Wilson, how long would something  
10 like that take to do?

11 THE WITNESS: Going back seven years begins to  
12 get very labor intensive because of changes in the work  
13 management systems and trouble-call management systems we  
14 have had. Therefore you end up, instead of looking  
15 through systems that we are currently using, you have to  
16 go into archival records and search for those by hand.

17 ALJ HARPRING: Okay. Right now, Ms. Wilson, what  
18 we have in the record is the repair and replacement  
19 records for 2006 and, I believe, all of 2007.

20 MS. WILSON-KAWAGOYE: The four?

21 ALJ HARPRING: The document that you referred to  
22 previously, yes, the four items.

23 Would it satisfy your needs to have that document  
24 essentially updated to include any repairs for 2008 and  
25 any repairs thus far in 2009? Because that is going to be

1 your most relevant information since it's most recent.

2 MS. WILSON-KAWAGOYE: Well, any part of 37 years.

3 I mean, it's just -- it's history, the history of the --

4 ALJ HARPRING: I understand APS's concern about  
5 trying to dig through records that were kept under a  
6 different system. And I believe that I personally caused  
7 them to look at 2006 and 2007 because those years  
8 obviously are quite relevant to the condition of the  
9 system at the present time.

10 I think that it would be very reasonable to  
11 require them to provide updated information showing what  
12 has been done in 2008 and thus far in 2009.

13 Would you agree that that would be reasonable?

14 MS. WILSON-KAWAGOYE: Anything that can help me.

15 ALJ HARPRING: Okay. And would that then satisfy  
16 your need for information about essentially the current  
17 state of the system?

18 MS. WILSON-KAWAGOYE: Yes. I mean, it would up  
19 to the 37 years and why, yeah. I want to know the  
20 37 years of -- they said that --

21 ALJ HARPRING: What they said is that they don't  
22 have 37 years' worth of records.

23 MS. WILSON-KAWAGOYE: I understand that.

24 ALJ HARPRING: And that they have, they think,  
25 seven years of those records. And we have already got two

1 of those years.

2 MS. WILSON-KAWAGOYE: Okay.

3 ALJ HARPRING: And we could get one and a half  
4 more to bring it up to the current day.

5 Q. BY MS. WILSON-KAWAGOYE: You mentioned that you  
6 have crews that goes through and assesses the condition of  
7 your equipment occasionally or, you know, I don't know if  
8 it's scheduled or whatever.

9 Do they make reports of what they find, if there  
10 were a violation or if there was something to be  
11 addressed?

12 A. What I testified to is that we have an individual  
13 that does the public -- the annual public safety line  
14 patrol, and that that patrol was done this year and that  
15 there was no violations in Hillcrest Bay.

16 Q. But do they do it every year?

17 A. It's an annual patrol. They do it every year.

18 Q. Is it possible to get his report from that  
19 annual -- for the last seven years?

20 A. I suppose it's possible.

21 Q. Okay. I didn't want to put anybody out, but I  
22 want to know how I go about it. Do I go to the Internet  
23 or is there a certain person I call?

24 ALJ HARPRING: I'm still trying to figure out  
25 just exactly what it is you are trying to get put into the

1 record.

2 MS. WILSON-KAWAGOYE: This is 37-year-old  
3 equipment.

4 ALJ HARPRING: Right.

5 MS. WILSON-KAWAGOYE: And I see in their  
6 paperwork that if they do -- if this underground does not  
7 go through, their intentions to even have, you know, for  
8 the future to even improve on anything that is there is 5,  
9 10, 15 years. Five more years would make it 42 years old,  
10 and ten years would make it 57 years old.

11 You know what I'm saying? It's older and it's --  
12 we are told that, you know, the loss of property or life,  
13 if this equipment -- because it's older.

14 ALJ HARPRING: Right. I think that there is  
15 already evidence in the record from the prior hearing  
16 about what APS considers to be the useful life of the  
17 equipment. And today Mr. Wilson has testified about what  
18 their plan is for replacing things. And he has also  
19 testified that right now they have not identified any  
20 public safety issues; right?

21 THE WITNESS: That's correct.

22 ALJ HARPRING: So what are we trying to find out  
23 right now?

24 MS. WILSON-KAWAGOYE: Oh, I just would like to  
25 know if I could have the seven last -- the previous seven

1 years annually of what was reported.

2 ALJ HARPRING: But do you want that for you or do  
3 you want that for me? That is really the question. If  
4 you want it for me, because you want me to see it and to  
5 consider it as evidence in this case, then it would be  
6 something that we would need to ask APS if they can  
7 provide. And if I believe it's appropriate, I will ask  
8 them to provide it.

9 But if you just want it for you because you want  
10 to know, then I think it would be more fruitful for you to  
11 have this discussion with APS later on. Okay?

12 MS. WILSON-KAWAGOYE: Okay. Okay.

13 ALJ HARPRING: So which one is it?

14 MS. WILSON-KAWAGOYE: For me. It's for me. I  
15 will call his office and inquire about it.

16 ALJ HARPRING: Okay. Then you can proceed with  
17 additional questions, if you have them.

18 Q BY MS. WILSON-KAWAGOYE: This project, I have  
19 heard of a long-term amount mentioned, you know, that can  
20 be financed over 15 years, a set limit.

21 And then they talked about a short-term amount  
22 that -- and the long-term amount can never go any higher  
23 than it is now. It may go lower, but it will never go  
24 higher.

25 And then they talk about a short-term amount,

1 which right now the amount is \$9,250,077, I believe, for  
2 the amount for short term.

3 And the way -- I'm asking, am I understanding  
4 this wrong, this short-term amount, which should be paid  
5 between 30 and 60 days, from the back of my monthly bill,  
6 it sounds like from -- if a -- when they disconnect from  
7 the above overhead system and everything, the conversion  
8 is done, and they hook it up to the underground  
9 conversion, that that is -- the disconnect and reconnect,  
10 this would be a one-time bill on your first monthly  
11 payment? And if it never went over 902,000 right now,  
12 would it be \$4,750 plus your monthly usage?

13 Is that correct in that?

14 MR. METLI: Your Honor, object.

15 ALJ HARPRING: Okay. What I think you are asking  
16 about is the private costs; is that correct? Private  
17 costs, the costs that the property owners are not able to  
18 finance?

19 MS. WILSON-KAWAGOYE: All paperwork says  
20 long-term/short-term.

21 ALJ HARPRING: These are the quantities -- the  
22 quotes you got through the homeowner association; right?

23 MS. WILSON-KAWAGOYE: No letterhead. No, we  
24 really didn't. We got something on a blank piece of  
25 paper, but it --

1 ALJ HARPRING: But it had like a handwritten  
2 quote on it; right?

3 MS. WILSON-KAWAGOYE: Right.

4 ALJ HARPRING: And it didn't come from APS  
5 directly, to your knowledge?

6 MS. WILSON-KAWAGOYE: No. Ours was \$1600, but in  
7 APS's and in Verizon's paperwork this \$902,000 is  
8 mentioned.

9 ALJ HARPRING: Okay. And that has been referred  
10 to previously as the private costs.

11 So is your question for Mr. Wilson whether the  
12 private costs attributed to any particular parcel have to  
13 be paid right away?

14 MS. WILSON-KAWAGOYE: Well, it states in the  
15 paperwork that it's 30- to 60-day --

16 ALJ HARPRING: So what is your question for  
17 Mr. Wilson?

18 Q BY MS. WILSON-KAWAGOYE: Well, they are both in  
19 it. There is no ceiling to how high this can go, but is  
20 that correct, that it is for the disconnecting of your  
21 service and reconnect to the underground service?

22 A If in fact you are referring to the private  
23 costs, here again, APS has not been involved in preparing  
24 those estimates nor are we involved in collecting the  
25 money for them. The private costs would be the costs to

1 convert or reserve your home from the new APS meter or the  
2 existing APS meter if we serve you in the same spot. So  
3 if we serve in the same spot, there wouldn't be any cost.

4 But if you need to move your meter, then there  
5 would be some private cost for that new meter pedestal or  
6 relocating the meter pedestal and reserving your home.  
7 APS is not involved in those. APS does not finance those.

8 Q I understand that.

9 I'm saying just for your -- because you are the  
10 only one that can do this as far as the power goes, the  
11 disconnect to the reconnect.

12 A The actual physical removal of the meter?

13 Q No, the actual disconnecting of the  
14 aboveground -- and we don't care when you take that down  
15 or when you decide. Everything has been done to the  
16 house, to the meter, where it can be reconnected for to us  
17 have power.

18 ALJ HARPRING: Ms. Wilson, are you asking him  
19 what goes into the private cost?

20 MS. WILSON-KAWAGOYE: No. I want to ask what  
21 basically the charge would be to disconnect, to reconnect.  
22 Our private cost would already be paid, but what would be  
23 the charge assessed?

24 ALJ HARPRING: Are you asking if APS is going to  
25 charge you an additional fee for disconnecting and



1 reconnecting?

2 MS. WILSON-KAWAGOYE: When I read the back of my  
3 bill -- that is what I'm saying -- if my interpretation is  
4 wrong from the back, I read on my bill they charge for  
5 this.

6 ALJ HARPRING: Okay. So you are asking are they  
7 going to charge you a disconnection and reconnection  
8 charge as a result of this underground project if it goes  
9 through?

10 MS. WILSON-KAWAGOYE: And would it be part of the  
11 short-term --

12 ALJ HARPRING: Go ahead.

13 Q. BY MS. WILSON-KAWAGOYE: Would it be a part of  
14 that short-term amount?

15 A. I think I understand the question being, if you  
16 were to request that your service be connected, there's a  
17 service establishment charge that goes on your normal APS  
18 bill.

19 In the context of the underground conversion  
20 service area there would be no charge on your normal APS  
21 bill for electric service. There would be no charge  
22 related to us taking out a meter from the old spot and  
23 putting it into the new spot.

24 Q. For disconnect and connect there would not be  
25 anything on my monthly bill saying --

1       A.     On your regular APS bill, no there will not be a  
2 charge.

3       Q.     But it's opposite on the back of a bill now.

4       A.     But in this context, you are not really  
5 disconnecting and reconnecting service as it's defined for  
6 that charge to apply.

7       Q.     Okay. But the \$902,000, if I hire a private  
8 contractor and I have everything done for your disconnect  
9 and reconnect, am I still part of that \$902,000 to be  
10 divided?

11      A.     I'm not sure what 902,000 you are referring to.

12           ALJ HARPRING: I believe that you are once again  
13 referring to what has previously been referred to as the  
14 private cost. And as Mr. Wilson has previously testified,  
15 the private costs, they are not going through APS, and  
16 they didn't provide those estimates. Those estimates were  
17 provided by a contractor who gave them to HBI.

18      Q.     BY MS. WILSON-KAWAGOYA: Okay. But approximately  
19 902,000, making the total cost, but there is no limit to  
20 where or what -- you know, how high this amount can go?

21           ALJ HARPRING: So do you have additional  
22 questions for Mr. Wilson related to APS?

23           MS. WILSON-KAWAGOYE: No, not as long as I don't  
24 have anybody that they know is going to do it. I mean, it  
25 wouldn't -- you couldn't answer it.

1 ALJ HARPRING: Okay. So you don't think you do  
2 have additional questions for Mr. Wilson?

3 MS. MITCHELL: No. I'm fine.

4 ALJ HARPRING: All right. Thank you.

5 Mrs. Bond, our court reporter needs a break. It  
6 is quite possible that other people might need a break. I  
7 think that it would be good though to get through  
8 Mrs. Bond -- we'll take a very quick break then go to  
9 Mrs. Bond, then go to Mr. Garcia. I will hold my  
10 questions until after we take a lunch break because I do  
11 have some.

12 So we are going to be in recess until this clock  
13 says 12:25. Thank you.

14 (Whereupon, a recess was taken from 12:18 p.m.  
15 until 12:24 p.m.)

16 ALJ HARPRING: Okay. Could everybody get back to  
17 their seats? We will go back on the record.

18 And Mrs. Bond, you are up.

19

20 CROSS-EXAMINATION

21

22 BY MRS. BOND:

23 Q Thank you. Mr. Wilson, you are assigned to the  
24 Parker area.

25 Would that include other subdivisions similar,

1 like akin to Hillcrest Bay with power poles?

2 A. Yes.

3 Q. Okay. Would you say Hillcrest Bay is more or  
4 less or equal to pole issues via wind, rain, birds, ducks?

5 A. We have, you know, a varying spectrum of issues  
6 and various subdivisions. The rear lot distribution at  
7 Hillcrest Bay is not my worst situation, but it's close.

8 Q. So it's not any more or less as far as  
9 dilapidation or issues? Obviously we have only had one  
10 pole, so they are not falling down at any rapid rate than  
11 somewhere else in the vicinity?

12 A. No.

13 Q. If a homeowner were to want to go underground,  
14 utilities underground -- not personally, a terrorist --  
15 can they pay for that themselves?

16 A. Yes. Per the policy, yes.

17 Q. So if it was a line in my vision, I could have  
18 that done myself?

19 A. Yes.

20 Q. And I know you do budgeting?

21 Is it any -- I don't know how far you will go, so  
22 I will say within the next five years -- is there a budget  
23 or moneys essentially set aside for anything for Hillcrest  
24 Bay or a substantial amount for new poles?

25 A. No.

1 Q So you don't foresee there being a big drop of  
2 poles in the next, we will say, five years?

3 A No.

4 Q Because I'm sure you budget for mass moneys that  
5 far in advance.

6 A We do have, yeah, classifications of money in our  
7 budget for various things.

8 Q Or larger projects?

9 A And it's not targeted to any one division or  
10 town; it's pretty much my area for --

11 Q General matters, things like that?

12 A Yeah.

13 Q So there is no big, we have set money aside for  
14 Hillcrest Bay to drop these new poles?

15 A No, there is not.

16 Q I think A-1 was your paper, the five-page paper  
17 that was out?

18 A Yes.

19 Q On lot 133, what do you show as yes/no? That is  
20 my lot.

21 A Parcel 133, it appears to have been -- not a  
22 signature on the initial petition and therefore no change.

23 Q Okay. That is my lot, and that was -- until I  
24 saw the CD that was sent out, I didn't realize that my  
25 signature was on that because I am a no vote.

1 I would like the record to say that my vote is  
2 no. I'm not changing my vote; I would like to make sure.

3 ALJ HARPRING: Okay. This isn't the time for you  
4 to do that, but when you are given the opportunity to give  
5 your testimony, that would be the time.

6 MRS. BOND: Okay. I thought it was per this  
7 document. And if I -- okay. Then I think that is it.  
8 Thank you.

9 ALJ HARPRING: Okay. Thank you.

10 Mr. Garcia.

11 MR. GARCIA: Yes. Thank you.

12

13 CROSS-EXAMINATION

14

15 BY MR. GARCIA:

16 Q Hello again, Mr. Wilson.

17 A Good afternoon.

18 Q Something that was just testified to, you said  
19 that they could put underground -- if a line was in  
20 somebody's vision, they could put the underground in at  
21 their expense.

22 Can you clarify what you said?

23 A If an individual customer wanted to put a line  
24 underground, they could do so at their expense.

25 Q Which line?

1       A.     It would be the APS overhead, primary and  
2     secondary. The thing you need to address is the  
3     feasibility, because it could be hugely expensive.

4       Q.     Okay. But you are saying that if I had the  
5     money, the wherewithal to afford it, that I could have any  
6     line that bothers me in that tract replaced?

7       A.     Technically, yes. From the cost estimates, if  
8     you have \$3 million, you could do the whole subdivision.

9       Q.     That may be an option. I just wanted to clarify  
10    that.

11            Just a couple of questions, is it a fair  
12    statement that many of the poles in the Hillcrest Bay  
13    subdivision are on the rear lot line? Did you use the  
14    term rear lot a few minutes ago?

15       A.     Yes, I did. And --

16       Q.     That is two questions.

17       A.     Yes, I did use rear lot as a term. And it's a  
18    fair characterization that most of them are in the rear  
19    lot, definitely a majority. I'm not sure what the  
20    percentage.

21       Q.     I don't need a percentage.

22            But the majority of the poles -- would it be a  
23    fair statement that the majority of the poles in that  
24    subdivision are at the rear lot line?

25       A.     Yes.

1       Q     The Exhibit 12-A or A-12, which is a diagram that  
2 was done --

3       A     The late-filed exhibit?

4       Q     -- in evidence and the new poles that are shown,  
5 are those on the rear lot line or on the streets in front  
6 of the lots?

7       A     The new poles or the overhead plan that is  
8 represented by this exhibit would eliminate all APS poles  
9 that are currently towards the rear of the property.

10      Q     When you say "eliminate," can you define that?

11      A     If they were to remain, APS would not have  
12 ownership of them.

13      Q     That is what I wanted to know.

14             That means that the poles would not be taken out  
15 necessarily; but you would not be using them at that  
16 point?

17      A     Right. As we previously discussed, Verizon would  
18 have the option of retaining or taking over ownership of  
19 those poles and keeping their facilities on those poles.

20      Q     That was my question to clarify that.

21             And you cannot speak for Verizon, I take it?

22      A     No.

23      Q     So the new poles that would go in would be on the  
24 streets?

25      A     Possibly. As I explained, the overhead plan was



1 prepared as a method to look at future avoided costs as an  
2 option to the underground.

3 Q A-12, it appears that every pole I could find was  
4 on the front street.

5 A Yes.

6 Q And you have stated that that would eliminate  
7 service on the old poles at some point, some future  
8 date -- we don't know when -- and that it would be up  
9 to -- it's not your discretion; it's up to APS whether --  
10 up to Verizon whether they will use those poles or not?

11 A Yes.

12 Q Let me ask you, in your opinion, Mr. Wilson, and,  
13 you know, I have seen you up there numerous times. You  
14 know that tract well. You have a history with it being  
15 the Parker manager.

16 Is it your opinion, do you believe, there would  
17 be more poles in that subdivision, whether yours or  
18 someone else's, two years from now if this undergrounding  
19 does not go through?

20 A I don't know that I can answer that. That is  
21 fortune-telling.

22 Q I'm not sure it is. You must have some opinion  
23 whether there would be fewer, less or more.

24 A Just typical development, the number of poles is  
25 not going to go down.

1 Q Okay.

2 A It may stay the same or depends on what develops  
3 there is more.

4 Q There is a probability that there would be more  
5 poles, obviously, than there are now?

6 MR. METLI: Objection. He didn't use the term  
7 probability.

8 ALJ HARPRING: And also you're testifying.

9 MR. GARCIA: Yes.

10 Q BY MR. GARCIA: So you can't answer the question?

11 A I thought I did.

12 Q All right. The answer was that you can't answer?

13 MR. METLI: Objection; that wasn't the answer.

14 ALJ HARPRING: Right. He gave --

15 MR. GARCIA: The court reporter can read back  
16 what his answer was.

17 ALJ HARPRING: Honestly, I don't think she needs  
18 to.

19 You asked him, and he told you that that would be  
20 fortune-telling. And that is his word, not mine. And it  
21 is not probable that the number of poles would go down;  
22 they could remain the same and he answered, well, that  
23 they could go up.

24 Is that accurate?

25 THE WITNESS: That is accurate.

1 ALJ HARPRING: There you go.

2 MR. GARCIA: That's it. Thank you.

3 ALJ HARPRING: Before we go to lunch, do any  
4 other property owners --

5 All right. You had your crack, Mr. Nelson, and I  
6 will give you another opportunity, but right now I'm  
7 asking for people who have not asked questions.

8 Ma'am, I don't recall your names.

9 MS. JONES: Carole Jones.

10 ALJ HARPRING: Carole Jones, did you have  
11 questions for Mr. Wilson?

12 MS. JONES: Yes.

13 ALJ HARPRING: Please come forward.

14

15 CROSS-EXAMINATION

16

17 BY MS. JONES:

18 Q You said that there was no safety issues right  
19 now at Hillcrest Bay; correct?

20 A I said that our public safety line patrol, and as  
21 far as I was aware, there was no violations.

22 Q My son's house, which is at 907 Max View, and  
23 it's lot 195A, has a pole that is leaning and there is guy  
24 wires in his backyard because it's 10 or 15 feet off the  
25 public easement. And when he built his house he asked to

1 have it moved. He was told it would be \$20,000 to have it  
2 moved even though it wasn't in an easement. And it's  
3 close to his sliding glass door, and he has little kids  
4 that have to walk around this.

5 MR. METLI: Your Honor.

6 ALJ HARPRING: Ms. Jones, are you asking a  
7 question?

8 Q. MS. JONES: Is that a safety issue? Because it's  
9 been leaning for a few years and it has a guy wire --

10 ALJ HARPRING: Are you asking him to assume facts  
11 that have not been presented in evidence? What I will  
12 allow you to do is to say, hypothetically, if that were  
13 true, that what she has said, if that were true, would  
14 that be a public safety issue.

15 THE WITNESS: If I understand your question,  
16 hypothetically a leaning pole, that down guy that is  
17 accessible to children --

18 Q. MS. JONES: Or anyone, it's on somebody's  
19 backyard and not on an easement.

20 A. No. I would consider that not to be a hazard.  
21 Whether or not it is an easement has no relevance on the  
22 safety.

23 Q. Okay. It would be a hazard?

24 A. It would not.

25 Q. No?

1           A.     I would not consider a down guy to be a hazard.  
2     They are all over the alleys and streets.

3                   ALJ HARPRING:   Was that your only question?

4                   MS. JONES:    Yes.

5                   ALJ HARPRING:   Okay.   Thank you.

6                   Was there anyone else that has not asked  
7     questions of Mr. Wilson and would like to now?

8                   Okay.   I don't see anyone who has responded that  
9     they do so we are going to take a lunch break.

10                  MR. MUMAW:   Before we do, Judge, I did obtain a  
11     copy of the letter, so I thought I would distribute it now  
12     so if people wanted to maybe do some idle reading during  
13     their lunch hour.

14                  ALJ HARPRING:   Yeah.   We will all enjoy that  
15     during lunch.   Thank you very much.

16                  Okay.   And I will take official notice of the  
17     existence of this letter, unless someone has an objection.

18                  Okay.   I don't see any objection, so I will do  
19     that.

20                  MR. MUMAW:   Your Honor, just for the record, I  
21     have been reminded, at least I should have known since the  
22     letter was from me, that this was requested from the  
23     chairman that was not associated with any particular  
24     docket.   So this is not a docketed item.   It's obviously a  
25     public document, but I didn't want anyone to try to find

1 it on the Commission's web site or anything like that.

2 ALJ HARPRING: Okay. In light of that, Mr. Mumaw  
3 and Mr. Metli, would you like to have this entered as an  
4 exhibit so it will be docketed?

5 MR. MUMAW: Certainly I don't have any objection.  
6 It was frankly to provide some information because there  
7 was some curiosity, and I think naturally so, as to  
8 whether there could possibly be federal stimulus funding  
9 available for this sort of project.

10 This was the only document that I can think of  
11 that was germane to this issue. If you think it's  
12 helpful, we don't have any objection of having it marked  
13 as A-2 and having it admitted.

14 ALJ HARPRING: Does anyone have an objection to  
15 this document, which is a letter dated June 10th, 2009,  
16 from Pinnacle West Law Department signed by  
17 Thomas L. Mumaw, entered into evidence as Exhibit A-2?

18 MR. SABO: Your Honor, may we -- could I ask  
19 Mr. Mumaw a question?

20 ALJ HARPRING: Go ahead.

21 MR. SABO: Or maybe we could rule on it after  
22 lunch.

23 ALJ HARPRING: That would be fine.

24 So it is now 12:40 -- was the amount of time that  
25 I gave you yesterday adequate or too much?

1 MR. LORCH: The item that was before us regarding  
2 the letter, is that going to be entered into --

3 ALJ HARPRING: That has yet to be determined  
4 actually.

5 MR. LORCH: Okay.

6 ALJ HARPRING: I will address that first thing  
7 after lunch.

8 MR. GARCIA: Give us a chance to read it.

9 ALJ HARPRING: Okay. I will give an hour and  
10 10 minutes. So it's now 12:40, and we will come back at  
11 1:50 on that clock, which is just slightly more than an  
12 hour. So 1:50 on clock A, and we are in recess.

13 (Whereupon, a recess was taken from 12:41 p.m.  
14 until 1:35 p.m.)

15 ALJ HARPRING: Okay. Let's go back on the  
16 record.

17 It appears to me that everyone who was here this  
18 morning is still here.

19 Is that -- except perhaps Mr. Bond?

20 MS. MITCHELL: Or Mr. Garcia.

21 ALJ HARPRING: Is Mr. Garcia gone or Mr. Sears?

22 MR. SABO: Mr. Sears is coming right back. He  
23 stepped out for a moment.

24 ALJ HARPRING: Okay. The Lorches are back.

25 So Mr. Bond is not here? Is he going to be back?

1 MRS. BOND: I don't believe.

2 ALJ HARPRING: And Mr. Garcia, do we know if he's  
3 coming back?

4 MR. SABO: I don't know, Your Honor. In  
5 discussing it with him, he indicated he may only be here  
6 for the morning, so I wouldn't wait for him.

7 ALJ HARPRING: Well, then, just let the record  
8 show that Mr. Garcia is not here at the moment and  
9 Mr. Sears is also not here at the moment.

10 So the last thing we were talking about was  
11 whether Exhibit A-2 -- well, the potential Exhibit A-2,  
12 Pinnacle West Law Department, the letter written by  
13 Mr. Mumaw on June 10, 2009, was going to be entered into  
14 evidence or whether I was going to take official notice of  
15 it.

16 And, Mr. Sabo, I think you had some reservations.

17 MR. SABO: I did, Your Honor. Those were based  
18 on, you know, a quick review of the letter.

19 It looked like the letter was more about  
20 extending electric service into new areas rather than  
21 taking existing overhead facilities and putting them  
22 underground. And I know Mr. Mumaw was going to check a  
23 little bit, but I think it may be better to get this  
24 information in in terms of what this stimulus bill has,  
25 just to establish from Mr. Mumaw what they have looked



1 into.

2 ALJ HARPRING: Mr. Mumaw?

3 MR. MUMAW: Your Honor, honestly I don't have a  
4 dog in this fight. I think this letter did provide some  
5 relevant information on this specific issue on the  
6 availability of stimulus funding. Although, I will agree  
7 with Mr. Sabo that the specific issue that the chairman  
8 had inquired about dealt with the extension of facilities  
9 to an area that is presently unserved. Although, I can  
10 represent to Your Honor that although not discussed in the  
11 letter, because she did not ask about that, we didn't look  
12 into that -- the possibility for the current situation and  
13 determined as we did with Whispering Ranch that there was  
14 no funding available for electric facilities either to  
15 extend them or to put them underground.

16 ALJ HARPRING: Okay. Do you feel like this is  
17 something that should be entered as an exhibit or did you  
18 just really provide it for informational purposes?

19 MR. MUMAW: Your Honor, I did provide it for  
20 information. Since one of the residents had raised that  
21 issue, I would agree at this time -- I mean, there are  
22 \$7 billion out there, Your Honor, and people are certainly  
23 hoping that it might be available for this or that  
24 infrastructure project.

25 So frankly we thought we would be remiss if we

1 had not, at least, investigated that possibility. And I  
2 wanted frankly the people there to know that we have  
3 looked into that possibility and it's just not there.

4 ALJ HARPRING: Okay. Well, in that event I don't  
5 think that we need to have this entered as an exhibit, so  
6 we will just move on.

7 And please let the record show that both  
8 Mr. Sears and Mr. Garcia are now present.

9 It's my turn.

10

11

EXAMINATION

12

13 BY ALJ HARPRING:

14 Q Mr. Wilson?

15 A Yes, Your Honor.

16 Q Please let me remind you, you are still under  
17 oath.

18 A Yes.

19 Q Has APS's ability to pay for underground  
20 conversion changed at all since the prior hearing?

21 A No, it has not.

22 Q Okay. Has APS determined whether the cost  
23 estimates in the joint report are still sufficient to  
24 cover the work that has been done if it's approved?

25 A We have not specifically addressed that.

1 Q. Has there been discussion in that regard?

2 A. I have had discussions with the APS group that  
3 administers contracts for trenching/conduit-type work,  
4 which is primarily what our costs are, and they have  
5 indicated that since 2007 the bids they are currently  
6 seeing are somewhat reduced from equivalent projects.  
7 They couldn't quantify it, but they did indicate that for  
8 lack of demand for service, costs are below what they were  
9 in 2007 and 2006.

10 Q. Okay. Have you reviewed -- I know that you  
11 have -- the revised cost estimates provided by Tades?

12 A. Not in great detail, no.

13 Q. Not in great detail.

14 Have you analyzed them in terms of the work that  
15 they are intending to reflect?

16 A. I would have to say no to that.

17 Q. Okay. I think you have already answered it, but  
18 I will ask it anyways.

19 Has APS agreed to use Tades for the contractor  
20 for the trenching work and conduit work in this case?

21 A. No, we haven't, and that is not to imply that we  
22 would not be willing to discuss that.

23 Q. Okay. But previously you had said that, I  
24 believe, that you were going to be -- you really needed to  
25 rebid because the contractor who previously had provided

1 the estimates is no longer doing that type of work; right?

2 A. That's correct.

3 Q. And my understanding was that if Tades is at that  
4 point in time, the rebidding time, is an approved APS  
5 contractor, then they would be invited to submit a bill as  
6 well?

7 A. That's correct.

8 Q. So it's within the realm of possibility that that  
9 could happen in the future?

10 A. Yes.

11 Q. Okay. The liens, the proposed liens that have  
12 been filed by APS, how long will those stay on the  
13 property; do you know?

14 A. They are out there. We have nothing in place  
15 pending resolution of the matter. I would say once the  
16 matter is -- if it is not approved, they would be removed  
17 as soon as possible thereafter.

18 And if the product is approved, then they would  
19 remain in place until liens are either filed for the  
20 finance cost or the cost of payment, in which case the  
21 poles would be removed.

22 Q. Okay. So they wouldn't be replaced with liens  
23 for the actual cost, whatever those might be?

24 A. Unless the costs were paid in cash.

25 Q. Okay. Is there a legal requirement for electric

1 meters to be located in the front of the lots in Hillcrest  
2 Bay?

3 A. Not a legal requirement. That is an APS electric  
4 service requirements manual specification.

5 Q. So that is an APS policy?

6 A. Yes.

7 Q. What is APS's reliability data for 2008; do you  
8 know, the SAIFI, CAIDI and SAIDI?

9 A. Off the top of my head I don't have those numbers  
10 for APS.

11 ALJ HARPRING: Could you obtain that information  
12 and file it as a late-filed exhibit, please, Mr. Metli?

13 MR. METLI: Yes, for 2008, Your Honor?

14 ALJ HARPRING: Actually, I would like to see 2008  
15 and then thus far in 2009 as well.

16 MR. METLI: Yes, Your Honor.

17 Q. BY ALJ HARPRING: Do you know how frequently  
18 outages have occurred in Hillcrest Bay in 2008 and this  
19 portion of 2009 that has occurred so far?

20 A. I don't have a number. I know there were a  
21 number of outages that occurred, some of them in relation  
22 to the reconstruction of the transmission line. There was  
23 some switching outages and some other, like three or four  
24 other outages, that were related to that that were  
25 reasonably short duration, less than an hour or two.

1 Q Is that the WAPA line?

2 A Yes.

3 Q Okay. And as I recall, there was a plan at the  
4 time of the last hearing for seven miles of that WAPA line  
5 to be replaced; is that correct?

6 A That's correct.

7 Q So what is the status of that?

8 A That project was divided into two sections. The  
9 first three miles up to Hillcrest Bay from Parker Dam is  
10 under construction. The transmission line has been  
11 replaced. Most of the poles on that line up to Hillcrest  
12 Bay have been replaced.

13 We are also going to underbuild that with a  
14 feeder off of another substation and eliminate the low  
15 substation at Hillcrest Bay. That portion is not done.  
16 We were asked to cease construction because of wildlife  
17 bird -- migratory bird issues.

18 Q By whom were you asked to cease construction?

19 A US Fish and Wildlife Service.

20 Q And what is the status of that?

21 A We will be permitted back in to begin  
22 construction again in mid October.

23 Q And is that related to migratory bird season or  
24 something of that nature?

25 A That is the date they told us we could go back

1 and --

2 Q So you don't know why; they just said you  
3 couldn't?

4 A Yeah, there are birds in the area during the  
5 summer that they don't want disturbed.

6 Q Okay. And then the underbuilt free-phase feeder,  
7 that is what we talking about; right?

8 A Yes.

9 Q And it's from your Colorado substation?

10 A Yes.

11 Q And it's eliminating the Buckskin substation;  
12 correct?

13 A That's correct.

14 Q Okay. Let's talk about those patios and decks  
15 that seem to be built around utility poles.

16 A Okay.

17 Q You have seen photos of those; correct?

18 A Uh-huh.

19 Q And which came first, the poles or the decks and  
20 the patio surfaces?

21 A The poles in most cases.

22 Q Okay. Did they in all cases or just in some?

23 A I haven't gone out and looked for pole dates. I  
24 would say almost without exception the poles were mostly  
25 in place before residences and related structures went in.

1       Q.    You were here yesterday when Mr. Kellogg was  
2    testifying; right?

3       A.    Yes, I was.

4       Q.    Did you hear him provide his opinion that the  
5    structures that surround poles -- the patios and decks --  
6    would not be compliant with the national electrical code?

7       A.    Yes, I heard him say that.

8       Q.    Do you have an opinion about that?

9       A.    I have expressed my opinion that our public  
10   safety line patrol, that has been done, has identified no  
11   violations.

12      Q.    Okay.

13      A.    And I have to lend some credibility to the  
14   inspector that does that.

15      Q.    Okay.  So then because you are APS inspector, who  
16   has gone out and actually visually inspected the property,  
17   has not identified those poles that are surrounded by  
18   decks and patios as a public safety hazard, that means  
19   that they are compliant with the National Electrical Code?

20      A.    I would have to say yes to that.

21      Q.    Okay.

22      A.    To my knowledge.

23      Q.    That is what that should mean?  Is that what you  
24   are saying?

25      A.    Yes.



1 Q Are those structures that envelope the pole  
2 encroaching on APS's easement or right-of-way?

3 A In most cases, yes.

4 Q Okay. And does APS intend to do anything about  
5 that?

6 A No. In response to the information in the HBI  
7 filing, I have commenced a project to identify specifics  
8 about any encroachments in the S easements. At this time  
9 I have about 46 that I believe are encroaching.

10 Q Okay. And once you identify those properties,  
11 what would the next step be?

12 A Start working through them to resolve them, in  
13 which -- and there are basically three resolutions that I  
14 could see -- foresee: One, which is not normally granted,  
15 would be a permission of encroachment permit, to build a  
16 permanent structure within an APS right-of-way or an  
17 easement. That usually is not allowed because that does  
18 open up potential for less-than-desired clearance, not  
19 necessarily less than code.

20 Second would be to remove those structures from  
21 the easements. And third would be for the customer to pay  
22 for the APS facilities to be moved.

23 Q Okay. And if they were to pay for APS facilities  
24 to be moved, that could entail, if the customer chose to  
25 pay for it, undergrounding those lines?

1       A.     Could.

2       Q.     Okay. But completely at the customer's expense?

3       A.     Yes.

4       Q.     Would all -- well, would the option of removing  
5 the structures also be at the customer's expense?

6       A.     Yes.

7       Q.     Okay. Has APS ever taken that type of action  
8 before to address a situation where there is an  
9 encroachment?

10      A.     I can recall one instance where there was a  
11 conflict previously. I have not been able to find the  
12 documentation on where a deck was built that did not have  
13 adequate clearance. APS raised the primary at APS expense  
14 at that point. But I believe there was notification to  
15 the homeowner and to the homeowners association or  
16 somebody else out there -- I don't remember who, and I  
17 can't find the documentation -- that any future  
18 encroachments would be rectified at the customer expense.

19      Q.     And that was in Hillcrest Bay?

20      A.     Yes.

21      Q.     Oh, your Exhibit A-1, did you take into account  
22 filings -- only filings that were made in the docket or  
23 did you also take into account what I have referred to as  
24 the new petition?

25      A.     Exhibit A-1 reflects only those items that were

1 filed in the docket.

2 Q So only essentially comment letters?

3 A Yes.

4 Q And just to clarify, is it true that if the cost  
5 estimates for any given parcel were to increase through  
6 the rebidding process, that, to your understanding, APS  
7 would still be limited to what was actually expressed in  
8 the joint cost report?

9 A That is my understanding.

10 Q Okay. All right. That is all.

11 Oh, I'm sorry. One more question.

12 I think that you stated earlier that it's  
13 important for APS to make changes in a cost-effective  
14 manner.

15 Could you explain why that is?

16 A Well, any money we spend ends up being a  
17 ratepayer expense, for the most part, or a shareholder  
18 expense.

19 Q Not everyone may know that.

20 A So it's either coming out of the customer's  
21 pocket or the shareholder's pocket.

22 Q So if the expenses of the project, the  
23 underground project, assuming that it's approved, actually  
24 exceeded what APS had originally quoted in the joint cost  
25 report, who pays that overage?

1       A.     At this point, based on my knowledge, which is  
2 not thorough, it would end up being a cost to the  
3 ratepayers, the customers throughout the state.

4       Q.     It would be a cost to APS first?

5       A.     Right.

6       Q.     And then it would either be passed on to  
7 ratepayers or to -- through reduced dividends to  
8 shareholders.

9             Is that accurate?

10       A.     Yes.

11             ALJ HARPRING:   Okay.   All right.

12             Mr. Metli.

13             MR. METLI:   Thank you.

14

15                               CROSS-EXAMINATION

16

17 BY MR. METLI:

18       Q.     Just have one question, point a clarification.

19             Mr. Wilson, you have been asked on one or more  
20 occasions regarding your opinion on whether you think it's  
21 prudent to move forward with this project.

22             Would you agree with me, sir, that upon receipt  
23 of the second petition, which was a petition APS received  
24 after the cost study went out, because the threshold of  
25 60 percent with respect to property owners and square

1 footage was met, APS and Verizon was obligated to file  
2 this application regardless of what any individual APS  
3 employee thought of the project?

4 MR. SABO: Objection; calls for a legal  
5 conclusion as to APS's obligations under the statutes.

6 MR. METLI: Your Honor, Mr. Wilson participated  
7 in the preparation of the application. He certainly  
8 understands the threshold requirements associated with the  
9 application, and the question was whether or not once  
10 those were met, were we obligated to file.

11 ALJ HARPRING: I'm going to allow you to ask him  
12 what his understanding was as to APS's obligation under  
13 those circumstances.

14 Q BY MR. METLI: Mr. Wilson, if you know, what was  
15 APS's obligation once that threshold was met?

16 ALJ HARPRING: What was your understanding of  
17 APS's obligation?

18 Q BY MR. METLI: What was your understanding of  
19 APS's obligation?

20 A My understanding of the statute and APS's  
21 obligation is that once the 60 percent threshold for the  
22 two criteria were met, we were obligated to proceed and  
23 file requesting the formation of the underground  
24 conversion service area.

25 MR. METLI: Thank you.

1 Your Honor, I have nothing further on redirect.

2 ALJ HARPRING: Okay. Mr. Hallam?

3 MR. HALLAM: No questions, Your Honor.

4 ALJ HARPRING: Ms. Mitchell?

5 MS. MITCHELL: Well, I just might ask a few.

6 ALJ HARPRING: Okay.

7

8

RECROSS-EXAMINATION

9

10 BY MS. MITCHELL:

11 Q Mr. Wilson, what is your understanding of a  
12 public service corporation's obligation to provide  
13 service?

14 A We have an obligation to provide electrical  
15 service subject to a whole list of things: Schedule one,  
16 terms and conditions; Schedule 3, the extension policy;  
17 and a number of other issues that, I guess, are mandated  
18 or negotiated with the Arizona Corporation Commission on  
19 the way we do business.

20 Q Would you agree with me that a public service  
21 corporation such as APS is under an obligation to provide  
22 safe and reliable service?

23 A In a cost-effective manner, yes.

24 Q And would you agree with me that if that were not  
25 the case, the Commission has the ability to take action if

1 there is a violation of public safety or public health or  
2 the provisioning of unreliable service?

3 A. It would be my understanding that the Commission  
4 could take such action.

5 MS. MITCHELL: All right. Thank you. I don't  
6 have anything else.

7 ALJ HARPRING: Okay. Mr. Sabo?

8 MR. SABO: Just a few, Your Honor. Thank you.

9

10 RECROSS-EXAMINATION

11

12 BY MR. SABO:

13 Q. Mr. Wilson, you mentioned there has been some  
14 discussion about the electrical safety code, and I think  
15 you mentioned OSHA as well.

16 What is your understanding of, if you know, of  
17 the spacing requirements between a structure and  
18 electrical lines?

19 A. Well, there are a number of different situations.  
20 Existing structure typically you have to have 10 foot of  
21 clearance at any point. Newer structures, I believe that  
22 clearance is 16.6. There are also horizontal clearances  
23 that are allowed. And usually when I get into a situation  
24 where I think those clearances are not there, I start  
25 digging out reference material and talking to the public

1 safety folks.

2 Q And is the 10 foot, is that a vertical clearance  
3 then?

4 A 10 foot to 7200 volts, yes.

5 Q And then you mentioned there was a horizontal  
6 spacing requirement.

7 What would that be?

8 A Off the top of my head, I don't know. It's  
9 different for windows, roofs, balconies.

10 Q Okay. Thank you.

11 You mention that had --

12 MR. SABO: I forgot to turn my thing on. I'm  
13 sorry, Your Honor.

14 ALJ HARPRING: That's okay.

15 Q BY MR. SABO: You also mentioned there was an APS  
16 inspector that goes around and checks.

17 What is the name of that inspector?

18 A I don't recall right offhand. There are -- he is  
19 in a reliability group in Phoenix. I'm not sure it's the  
20 same person every time.

21 Q You said he is in a reliability group in Phoenix.

22 So does he report directly to you or to someone  
23 else?

24 A Someone else.

25 Q To someone else, thank you.



1           Do you still have that Exhibit A-12 up there? If  
2 you do, could you take it out?

3       A.     The late-filed?

4       Q.     The late-filed A-12, the map.

5       A.     Okay.

6       Q.     Just for example sake, let's use Crystal View  
7 Drive.

8           Do you see that?

9       A.     Yes, I do.

10      Q.     And let's go with property 877.

11           Do you see that one?

12      A.     I'm unable to read the address numbers on this  
13 map.

14      Q.     You are unable?

15      A.     Right.

16           MR. SABO: Your Honor, could I give him the  
17 bigger version or how do you want me to proceed?

18           ALJ HARPRING: Yes, that would be okay.

19           I think I might need to keep a magnifying glass  
20 in here.

21           MR. SABO: Those are very small on 8 and a half  
22 by 11, yes.

23           THE WITNESS: Okay. 877 is about the middle of  
24 the block?

25      Q.     BY MR. SABO: Yes. Great.

1           You mentioned that APS would not be putting in  
2 the 42 poles in one fell swoop but rather would sort of  
3 replace them as the need arises; is that correct?

4           A.     Yes.

5           Q.     Now, let's say there was a need to replace the --  
6 let's say that there was a need to replace the pole that  
7 goes to this residence, 877 -- lot 877, and APS was going  
8 to put a line in front of the street to do that.

9           Would they be able to do it just for that one  
10 residence or would they need to put intermediate poles  
11 along the front of the street to get there?

12          A.     Well, based on this layout, in order to run an  
13 overhead line on Crystal View Drive to serve 877 Crystal  
14 View, it would appear that we would need four poles.

15          Q.     I see. So in some cases it may be one pole, but  
16 in some cases it may be more than one pole to get there?

17          A.     Yes.

18          Q.     Thank you.

19                 ALJ HARPRING: Mr. Sabo, I didn't follow that  
20 exchange at all. I may be the only one, but just in case  
21 I'm not, can you have him elaborate on exactly what --  
22 first, what you were actually asking him, and second, on  
23 his answer?

24                 Because I don't see a pole currently at 877. I  
25 see what appears to be a proposed steel pole that would be

1 between 877 and the lot next to it that has a triangle on  
2 it.

3 Could you explore that and explain exactly what  
4 it is you are trying to get him to tell you? Because I  
5 didn't understand it at all.

6 MR. SABO: Okay. It's little hard because he has  
7 my copy, so I'm not sure what you are looking at.

8 ALJ HARPRING: Okay. How about you get your copy  
9 back and we go from there.

10 MR. SABO: Okay. And, Your Honor, could I stand  
11 here at this point?

12 ALJ HARPRING: Yeah, sure.

13 Q BY MR. SABO: All right. Mr. Wilson, you  
14 mentioned the property in the middle of the street located  
15 right here; is that correct?

16 A I believe so, yes. Yes.

17 Q And currently there is a line behind the rear of  
18 the property line serving that property; is that right?

19 A Yes.

20 Q And then if APS determined that it was time to  
21 replace the lines going into that house and was going to  
22 switch over to having lines in the front of the street,  
23 that was the scenario that you and I were talking about  
24 previously; is that correct?

25 A Yes.

1       Q.     And in order to do that it would build a series  
2 of poles along the street to get to that location, which  
3 is about halfway up the street; is that correct?

4       A.     Yes. That's correct.

5             MR. SABO: Was that -- did that explain it?

6             ALJ HARPRING: Where would those poles be?

7             THE WITNESS: They would -- it looks like we  
8 would need to tap into the existing line on Manor View to  
9 the west.

10            ALJ HARPRING: Okay.

11            THE WITNESS: Set a pole there and then we would  
12 need three additional poles on Crystal View Drive to get  
13 to 877.

14       Q.     BY MR. SABO: And, Mr. Wilson, let me hand this  
15 back to you and maybe you can point to those particular  
16 poles.

17            ALJ HARPRING: Are those the poles that are  
18 referred to as the proposed steel poles?

19            MR. SABO: Yes.

20            ALJ HARPRING: Okay. I'm good. Thanks.

21            MR. SABO: Thank you, Your Honor.

22       Q.     BY MR. SABO: Sticking with the map -- so you can  
23 put it away -- you had that discussion with one of the  
24 individual property owners. I don't remember which one,  
25 but it was to the effect of, it would be possible for an

1 individual lot owner to do an underground of their  
2 particular lot if they chose to at their expense; is that  
3 right?

4 A. That's right.

5 Q. And I just wanted to explore some of the  
6 implications of that.

7 MR. SABO: Can I get my map, Judge?

8 ALJ HARPRING: Yes.

9 MR. SABO: I apologize. Maybe we should have had  
10 some additional ones made.

11 Q. BY MR. SABO: Let's use the same structure, 877,  
12 just for consistency.

13 The line as you mentioned is currently at the  
14 rear of the lot line; is that correct?

15 A. Yes.

16 Q. So if they wanted to remove the line, would they  
17 be able to underground just the portion of the line  
18 exactly behind their property line or would they have to  
19 do additional?

20 A. They would need to underground a portion that, at  
21 this point, began with an overhead line, transition it to  
22 underground, put in the underground portion that they  
23 want. And then if any line needs to continue to extend  
24 beyond that point, you would need to transition back up to  
25 overhead and go with that.

1       Q.     Okay.

2       A.     So it could require the decision of two poles to  
3 do those transitions, but they would have underground  
4 behind their lot where they wouldn't be looking at it.

5       Q.     I see. And you had a discussion, I think with  
6 Mr. Garcia, about, you know, someone wanted to come in and  
7 pay to underground, you know, a whole street or the whole  
8 development, APS would be willing to do that or that would  
9 be possible.

10            That was your testimony?

11       A.     I'm not sure that I heard or understood the  
12 question and all that.

13       Q.     Sure. And, you know, I'm not sure I exactly  
14 understood the exchange between you and Mr. Garcia. Let  
15 me see if I can ask some questions and see if we are on  
16 the same page.

17            I think he had asked about if there was a  
18 situation where someone wanted to remove -- let's say they  
19 had some lines that were obstructing their scenery but  
20 those lines weren't being used to serve their house, would  
21 the person be able to pay to get rid of those lines, put  
22 them underground?

23       A.     And my response was, yes.

24       Q.     And in that case, if those lines were put  
25 underground, then the homeowner served by that line, would

1 they need to pay off what are currently the private costs  
2 done, the trenching to their line, the new meters, all of  
3 those kind of things?

4 A. The short answer is yes, but hypothetically, if  
5 you are going to convert any portion of this system, any  
6 customers that are served off that system currently are  
7 going to need to be reserved and provisions made to be  
8 able to serve vacant lots in the future.

9 Q. Yes.

10 A. So, yes, there would be some private costs that  
11 the customer requesting the undergrounding would need to  
12 pay.

13 Q. I see. Thank you.

14 Let me ask you a question about -- it goes  
15 generally on the topic of reliability, but the specific  
16 question is: Would damage or outages from windstorms be  
17 less likely if the overhead lines were placed underground?

18 A. And we have given testimony along that line,  
19 overall reliability, and that was that that is no  
20 significant improvement or decline in reliability numbers  
21 from undergrounding an overhead system.

22 To answer your question, yes, there is more  
23 likelihood of wind damage to an overhead system than to an  
24 underground system.

25 Q. Thank you. That was my specific question.

1           The only other thing I wanted to talk to you  
2 about was just sort of the general topic of timing, and  
3 I'm going to give a series of events that I think is the  
4 sequence, and you tell me if that is right or if I'm  
5 missing some.

6           Is that okay?

7       A.     Yes.

8       Q.     The way I'm looking at it, we would get project  
9 approval, and then APS would bid the project. And then a  
10 contract would be awarded by APS. Then APS would have to  
11 schedule the work with the contractor. And then the work  
12 would have to be done. And then APS would have to compile  
13 the cost data and then send out the cost data and  
14 assessments to the customers.

15           Is that correct or did I miss some steps?

16       A.     Well, you kind of oversimplified the work. The  
17 work would have to be done by steps, because you have work  
18 done by the contractor, work done by APS, work done by  
19 Verizon, and APS and Verizon are both install/remove  
20 portions.

21       Q.     Okay.

22       A.     But, yeah.

23       Q.     Okay.

24       A.     Other than that expansion, that is essentially  
25 correct.



1 Q All right. What I'm going to do is kind of ask  
2 you if you have an estimate of the time. I will go  
3 through those one by one, and some of those you may not  
4 have an estimate and some you may. So, I guess, we will  
5 find out.

6 For the first one, I am guessing you don't have a  
7 good timeline of when the Commission would approve this,  
8 if they did?

9 A No, I don't set th Commission calendar.

10 Q Nor do I, and I will ask.

11 And then once the approval was granted, how long  
12 would it take to go from that point to having a bid issued  
13 by APS?

14 A Given the complexity and detail that is needed on  
15 this bid, two or three months.

16 Q Okay. And then once the bid is issued and bids  
17 are received, then how long would it be from the time the  
18 bid is issued to the time that the contract is finally  
19 awarded?

20 A The bid is issued to -- I think that is kind of  
21 the same question. Two to three months was my thought to  
22 get the site meet, explain details; when the bid is back,  
23 evaluate the bid and award the bid.

24 Q So that is all within the three months?

25 A I think so.

1       Q.     All right. And then how long would it take from  
2 the time that the contract is signed until the first work  
3 starts to be done on the project?

4       A.     That is going to depend on the contractor and the  
5 provisions of the contract. And in today's economy, with  
6 the work they don't have, they can be there tomorrow. If  
7 we wait a year from now and the economy has picked back  
8 up, it could be a couple months before they show up  
9 on-site.

10      Q.     Okay. And then once they start working, do you  
11 have an estimate from the sort of first shovel is turned  
12 until the completion of all the work?

13      A.     The only thing I have to go on there is  
14 Mr. Kellogg's testimony yesterday, and it was similar to  
15 values given by TP when they were looking at doing this,  
16 in the six-month range.

17      Q.     Okay. And then once the work is completed, how  
18 long would it take -- I'm not talking about the statutory  
19 deadline but just administratively for APS, to compile the  
20 necessary data and put that together and send it out as  
21 assessments?

22      A.     Well, we haven't talk about APS's or Verizon's  
23 construction time or removal time.

24      Q.     Why don't you tell us about that.

25      A.     And I don't have a copy of the work orders. I

1 have no idea what the man-hours is on those.

2 Probably several months for those.

3 Q Several months. So that would be after Tades or  
4 some other contractor finishes, there would be several  
5 months?

6 A Right.

7 Q Okay. And once all of that is done, then how  
8 long from the final completion of all the work by  
9 everybody on the project until homeowners start to see  
10 bills?

11 A Well, again, there is some statutory things that  
12 have slipped my mind here as far as when we can actually  
13 or should bill.

14 Q Let's set aside the statutory and just from an  
15 administrative standpoint, how long would it take to get  
16 all that together and get it out the door?

17 A Well, from an APS standpoint, with firm bids for  
18 the trenching and conduit, which is all the costs we will  
19 be able to pass on, which is all we put in the joint  
20 report, those numbers could be ready whenever the  
21 statutory is allowed, so 30 days.

22 MR. SABO: Okay. Your Honor, could I have one  
23 moment?

24 ALJ HARPRING: Sure.

25 Q BY MR. SABO: In the time frame that we have

1 talked about for the work, which was six months for the  
2 contractor and then some additional months for APS and  
3 Verizon, did that include the -- did that time frame  
4 include the removal of the poles or would there be an  
5 additional time frame for that?

6 A. I would anticipate there would be some additional  
7 time to complete the removals.

8 Q. How much would that be?

9 A. As I stated before, it would really depend on  
10 when the last person converts off of each line. We could  
11 go in and remove off piecemeal as the customers transfer  
12 to underground, but we can't move any of it until the  
13 customers on that piece have all converted.

14 MR. SABO: Thank you.

15 ALJ HARPRING: Any property owner parties who  
16 have questions for -- okay, Mr. Nelson.

17

18 RECROSS-EXAMINATION

19

20 BY MR. NELSON:

21 Q. Hello. My name is Ron Nelson. I hope I haven't  
22 asked this before.

23 Have we had a conversation about your personal  
24 preference about overhead versus underground conversion?

25 A. I believe we did.

1           Q.     And what was your position on that?

2           A.     Well, as I think I testified to before, my  
3     personal opinion has no bearing on the outcome of this.  
4     But I think our conversation, the gist of it, I put  
5     underground service to my house when I built my house. I  
6     prefer underground visually.

7           Q.     Thank you.

8                     Was it also your testimony that the guy wires or  
9     down lines -- are they the same thing, what I consider a  
10    guy wire from a pole, holding it from whipping back and  
11    forth, as a guy line?

12          A.     Yeah, guy wire, down guy --

13          Q.     Same thing?

14          A.     -- anchor, all terms relating to pieces and parts  
15    of the whole support structure, yes.

16          Q.     Was it your testimony that guy wires were not a  
17    hazard?

18          A.     They are not an electrical hazard, no.

19          Q.     Do you think they are a tripping hazard?

20          A.     I suppose they could be.

21          Q.     You were talking about your WAPA line.

22                    Are you installing some of that WAPA line at any  
23    part of the terrain that borders Hillcrest Bay?

24          A.     APS crews are replacing at WAPA expense the 69 kV  
25    transmission line that goes from Parker Dam to

1 approximately Planet Ranch, about seven miles, in two  
2 phases. APS crews are doing that.

3 Q And your reason for stop work for a while was  
4 because it was a, what, fly way?

5 A US Official Wildlife gave us some times when we  
6 could not do any construction in that area.

7 Q And does that portion border Hillcrest Bay? Does  
8 the fly way border Hillcrest Bay?

9 A I don't know if the fly way or the nesting area  
10 or what part of the migratory bird problem or situation  
11 prompted the stop work. We need official permission to  
12 work in that area, and they told us we couldn't work at  
13 certain times, so we are not.

14 Q Have you ever taken a GPS location of all of your  
15 existing power poles?

16 A Well, we have a GPS mapping system, and I can't  
17 say that they have taken the GPS location on every pole.  
18 They have taken, I know, GPS locations on all of the angle  
19 poles and dead-end poles, and in some cases they interpret  
20 a location based on old maps between those when they put  
21 out our GIS map.

22 Specifically Hillcrest Bay, yes, we have recently  
23 done some survey work up there.

24 Q The way I made that facial is because I saw them  
25 out there actually physically taking location.

1 ALJ HARPRING: And when you say "you," you meant  
2 not Mr. Wilson himself but someone that works for APS?

3 MR. NELSON: APS, yes.

4 ALJ HARPRING: Yes, it is wrong to tell the  
5 witness by nodding or any other means.

6 MR. NELSON: Yeah, I didn't want to trap him.

7 Q BY MR. NELSON: Are you aware -- are you aware of  
8 any inconsistencies with -- of the property lines in  
9 Hillcrest Bay to where there should be per plan from the  
10 City ledgers to where property lines are actually at now?  
11 Have you noticed any inconsistencies relating to that?

12 MR. METLI: Your Honor, I will object;  
13 foundation. There is nothing in the record that would  
14 suggest that.

15 ALJ HARPRING: Okay.

16 MR. NELSON: May I say that I'm asking that  
17 question because it was -- we are talking about their  
18 easements, which has to do with the property lines. That  
19 was why I was asking the question.

20 ALJ HARPRING: And what is it you are wanting  
21 Mr. Wilson to answer exactly?

22 MR. NELSON: Is he aware of any property lines  
23 that are either out -- some property lines that are  
24 located incorrectly from city maps?

25 ALJ HARPRING: You mean are there discrepancies

1 between the lots that people are actually using as their  
2 property and the lines that are on, what is it, the final  
3 plat for the subdivision?

4 MR. NELSON: Yes.

5 ALJ HARPRING: Is that your question?

6 MR. NELSON: Yes.

7 ALJ HARPRING: Do you have any reason to believe  
8 that Mr. Wilson has reviewed the final plat for the  
9 subdivision?

10 MR. NELSON: I assume he would have for the -- to  
11 know where their easements are.

12 ALJ HARPRING: Why don't you ask him. Ask him.

13 MR. NELSON: I don't know what to ask him.

14 ALJ HARPRING: Mr. Wilson, have you reviewed the  
15 final plat for the subdivision of Hillcrest Bay?

16 THE WITNESS: I have looked at it frequently.

17 ALJ HARPRING: Okay. So you are familiar with  
18 it?

19 THE WITNESS: Yes.

20 ALJ HARPRING: Are you familiar with  
21 discrepancies between the property that people are using  
22 as their parcel and the lines on that final plat?

23 THE WITNESS: I'm not aware of any. The level of  
24 detail that I received from our people who are up there  
25 doing survey work does not -- is not to that level of



1 detail.

2 ALJ HARPRING: Okay.

3 MR. NELSON: Thank you.

4 ALJ HARPRING: Sure.

5 Mr. Garcia?

6 MR. GARCIA: One question.

7 ALJ HARPRING: Sure, come on up.

8

9 RECROSS-EXAMINATION

10

11 BY MR. GARCIA:

12 Q I will not prolong this much longer. You used a  
13 couple of times the term cost effective.

14 Can you define that?

15 A Well, it's --

16 Q Because it was a material part of your answer.

17 A And to me cost effective means providing the  
18 service that we need to provide in a safe manner at the  
19 lowest possible cost.

20 Q At the lowest possible cost. Okay.

21 A And maybe I should put a caveat on that, with  
22 consideration for future possible needs.

23 Q There you go. Thank you.

24 One other question, do you know off the top of  
25 your head what the easements are in our subdivision?

1 There must be a front and a rear, I imagine.

2 A. Yes, I do, not totally off the top of my head.

3 Q. But do you have an answer?

4 A. On the subdivision plat?

5 Q. Yes.

6 A. On the east/west streets there is a five-foot  
7 utility easement on the properties on the southern side of  
8 the street.

9 Q. Okay.

10 A. On the interior lots on the west, north, and east  
11 sides there is a five-foot front lot easement.

12 Q. Front lot easement?

13 A. On all of those.

14 There are a few places, such up on Otis Court and  
15 Dunlap, up in the upper portion where the streets kind of  
16 angle, where there are some easements on the lots on the  
17 north side of the street that may jump to the south side  
18 of the street.

19 There are also signed easements for the  
20 back-to-back lots with the exception -- with one  
21 exception.

22 Q. Do you know the size?

23 A. Five foot on either side of the property line --  
24 the rear property line.

25 Q. That would be a total ten-foot easement on the

1 rear?

2 A. Yes. And if I could refer to the Exhibit A-12  
3 here, so I can obtain some street names.

4 So that would be from -- the lots between Bay  
5 View -- and I will read them from north to south -- Bay  
6 View, Swan, Crystal View, and Linger, the lots that are  
7 between those streets all have five-foot rear easements.

8 The lots between Max View and Linger, there is a  
9 100-foot easement in the back of that, 50 foot on either  
10 lot, that is indicated on the subdivision plat, that,  
11 although I have not been able to find any documentation on  
12 it, I believe was subsequently abandoned. I believe that  
13 was WAPA for a federal government.

14 Q. What is WAPA?

15 A. Western Area Power Authority.

16 So there was a 100-foot easement there. APS  
17 located facilities in that easement.

18 Q. Can you repeat, for me anyhow, where that  
19 100-foot easement was, on what streets?

20 A. It's between Linger Drive and Max View, and it  
21 extends basically to the limits of the subdivision, so  
22 those lots a Mobile View -- Mr. Benton, I think it's 34.  
23 There are three lots there on the little cul-de-sac.  
24 Originally there was 50 foot or an easement that was  
25 across those that was 100-foot in width and then two lots

1 on the eastern side of the subdivision. If you look,  
2 there are two very wide lots there; those were to  
3 accommodate the fact that 50 foot of each of those lots  
4 was an easement.

5 I believe we have five-foot on either side of the  
6 rear property lines between Max View and Noble View.

7 The lots on the south side of Noble View, we have  
8 an easement of six feet in width. The centerline being  
9 the line of the existing electric facilities. So the  
10 survey notes for those poles at the back of those lots was  
11 used as the centerline of a six-foot utility easement.

12 Q Okay.

13 A And in some places that puts that line 59 feet  
14 from the rear property line.

15 I believe we also have a -- No, I'm not sure  
16 about the easement between Otis Court and Dunlap south of  
17 Noble View.

18 And then on the corner of the western section  
19 between Linger and Max View, next to where Noble View and  
20 Manor View come together, there used to be a big mountain  
21 there. We temporarily relocated the facilities while that  
22 was removed and obtained some additional easements in  
23 there that are not the typical five-five easement.

24 Q That is the extent of your easements?

25 A For the most part, I think.

1 MR. GARCIA: That was all. Thank you.

2 ALJ HARPRING: Any other property owner parties  
3 with questions for Mr. Wilson?

4 (No response.)

5 ALJ HARPRING: Okay. I don't see any.

6 I have one, and it's really just to clarify some  
7 testimony that you just gave about private individuals  
8 paying for their own undergrounding basically.

9

10 FURTHER EXAMINATION

11

12 BY ALJ HARPRING:

13 Q If a customer were to request undergrounding, and  
14 in order to underground their property you also needed  
15 essentially to underground other homes' properties because  
16 of the location of their parcel, if the customer wanted to  
17 make that happen, would the customer be responsible for  
18 paying all the costs for all the parcels affected?

19 A That would be my opinion, yes, because APS  
20 shouldn't be paying for it, and we can't obligate those  
21 other customers to pay for it.

22 ALJ HARPRING: Okay. All right.

23 Mr. Metli?

24 MR. METLI: No redirect, Your Honor. Thank you.

25 ALJ HARPRING: Okay. Then thank you very much,

1 Mr. Wilson.

2 Mr. Hallam?

3 MR. HALLAM: All right. Verizon would call

4 Mr. William Kearns.

5

6 WILLIAM KEARNS,

7 called as a witness herein, appearing on behalf of

8 Verizon, having been first duly sworn by the certified

9 court reporter, was examined and testified as follows:

10

11 DIRECT EXAMINATION

12

13 BY MR. HALLAM:

14 Q Good afternoon, Mr. Kearns.

15 A Good afternoon.

16 Q Thank you for your patience.

17 A Thank you.

18 Q Could you please provide your name and business  
19 address for the record?

20 A Yes. My name is William Kearns. I go by Bill.

21 My address is 295 North Sunrise Way, Palm Springs,

22 California 92262.

23 Q And what is your position with Verizon?

24 A I'm the district manager for the Sunbelt

25 District, which is part of the South Division.

1       Q.     And can you describe for us briefly what your  
2 responsibilities are in relation to that position?

3       A.     Yes. I'm responsible for the day-to-day  
4 operations of networking, engineering and planning for  
5 Verizon, and I supervise six engineers, two analysts, two  
6 administrative clerks.

7             Part of the job of my engineers is to provision  
8 for Verizon telecommunications products and services and  
9 do design criteria for that, and in regard to, say,  
10 billing, work orders or obligatory road moves, relocation,  
11 capital, capital expenditures, that sort of thing,  
12 operational expenditures.

13       Q.     And are you familiar with the cost estimates that  
14 were prepared by Verizon as part of this proceeding?

15       A.     Yes, I am.

16       Q.     And did you testify at the hearing that was held  
17 on July 18, 2008?

18       A.     2008, yes.

19       Q.     Can you please generally describe again how  
20 Verizon prepared its cost estimates for this proceeding?

21       A.     Sure. Cost estimates were prepared using a  
22 threefold manner. We did it three ways.

23             We did a visual on-site inspection of each  
24 parcel, the service and the public areas.

25             We used scaled facility maps, scaled parcel maps,

1 and we used a measurement wheel.

2 Q Okay. And, Mr. Kearns, were you here yesterday  
3 when Mr. Kellogg from Tades Construction testified?

4 A Yes.

5 Q And were you here when Mr. Kellogg testified that  
6 the estimate provided by Tades included the majority of  
7 the telecommunications-related work, including cable and  
8 conduit?

9 A Yes.

10 Q Have you discussed this project at all with  
11 Mr. Kellogg or anyone from Tades Construction?

12 A No.

13 Q Okay. Now, did the estimate provided by Verizon  
14 rely upon having all the work being prepared or done by  
15 another contractor?

16 A Only that portion, the trenching and the  
17 placement of the conduit in the service area and in the  
18 public areas. That is all that the contractor would do.

19 We would do the placements -- placing the cables  
20 and the terminals, placing the network interface devices,  
21 the drops and the transfer of all work, removal of our  
22 aerial facilities. All of that, we would do that.

23 Q Okay. And the estimates that Verizon provided  
24 included those costs?

25 A That's correct.



1 MR. HALLAM: Your Honor, those are all the  
2 questions I have for Mr. Kearns, so he is available for  
3 cross-examination.

4 ALJ HARPRING: Okay. Mr. Metli, questions for  
5 Mr. Kearns?

6 MR. METLI: No questions, Your Honor.

7 ALJ HARPRING: Ms. Mitchell?

8 MS. MITCHELL: Yes, Your Honor. Thank you.

9

10 CROSS-EXAMINATION

11

12 BY MS. MITCHELL:

13 Q. Good afternoon, Mr. Kearns.

14 A. Good afternoon.

15 Q. Are you aware of the application by Verizon to  
16 transfer its assets to Frontier?

17 A. I'm aware of it, yes.

18 Q. Have you made any kind of analysis on how that  
19 transfer of assets would affect the underground conversion  
20 process should it be approved by the Commission?

21 A. No, I haven't, and I will tell you, that's  
22 Verizon's negotiations with Frontier, not only with  
23 Arizona but with a whole bunch of other states as well.  
24 We are going to be getting a lot of -- we will disburse a  
25 lot of our assets to different companies.

1 But until that becomes reality, Verizon is going  
2 to maintain the facilities that we have right now, and we  
3 have every intention to do that.

4 MS. MITCHELL: All right. I don't have any other  
5 questions. Thank you.

6 THE WITNESS: You are welcome.

7 ALJ HARPRING: Mr. Sabo?

8 MR. SABO: Thank you. Yes, Your Honor, just a  
9 few.

10 Ms. Mitchell, you eliminated my whole first line  
11 of questioning there, so I only have two or three.

12

13 CROSS-EXAMINATION

14

15 BY MR. SABO:

16 Q Mr. Kearns, is the copy of that transcript still  
17 up there that -- is there still a copy of the transcript  
18 up there?

19 MR. HALLAM: Your Honor, if I may approach, I do  
20 have a copy that I could provide to him if that is  
21 helpful.

22 ALJ HARPRING: It may very well be helpful.

23 THE WITNESS: I have Exhibit A-1.

24 ALJ HARPRING: No. It's -- please give it to  
25 him, Mr. Hallam. Thank you. And if you want to stay up

1 there so you can see it too, like Mr. Metli did earlier,  
2 that would be fine.

3 MR. SABO: What happened to the copy I gave?

4 ALJ HARPRING: Is that it?

5 MR. SABO: Yes.

6 ALJ HARPRING: Well, then, thank you anyway.

7 Q. BY MR. SABO: Great. You testified previously on  
8 January 18, 2008; is that correct?

9 A. Correct.

10 Q. Could you turn to page 139 of the transcript?

11 A. Okay. 139.

12 Q. And just the very last question and answer  
13 beginning at line 23, the question is: What is Verizon's  
14 plan if the underground conversion service area is not  
15 granted?

16 The answer is: "The status quo"; is that  
17 correct?

18 A. Yes.

19 Q. And then could you turn to the next page, 140?

20 A. Okay.

21 Q. And the next question -- I'll just read the last  
22 sentence of it -- "So in light of that is your answer  
23 still that you would not be moving the lines?"

24 And then your answer is, "That's correct."

25 A. Okay. So you wouldn't be moving any lines, and

1 what if --

2 MADAM COURT REPORTER: Sir, either read or don't  
3 read, please.

4 THE WITNESS: I'll read to myself. How's that?  
5 That's correct.

6 Q BY MR. SABO: Great.

7 And then the next question and answer -- the  
8 question asks that the result at the end of that process  
9 would be that there would be two sets of poles, one in the  
10 front and one in the back, and then you agree with that?

11 A There is possibility, yes.

12 MR. SABO: Okay. Those are my only questions.

13 Thank you, Your Honor.

14 ALJ HARPRING: Any property owners have any  
15 questions for Mr. Kearns?

16 Okay. Mr. Benton and then Mr. Lorch and then  
17 Mrs. Lorch.

18

19 CROSS-EXAMINATION

20

21 BY MR. BENTON:

22 Q Good afternoon, Mr. Kearns.

23 A Good afternoon.

24 Q If we buried the -- I believe they are referred  
25 to as copper wires; is that correct?

1       A.     Yeah. The transport medium that is currently  
2     serving Hillcrest Bay is copper medium.

3       Q.     If we buried those wires, will that in any way  
4     enhance or get us any better or more updated service than  
5     what we already have now?

6       A.     No.

7       Q.     Okay. With technology advancing as it is -- I  
8     read several articles in the paper and in the Internet,  
9     and I think one of them was even titled "Death to the  
10    copper wires."

11      A.     Excuse me. I can't hear because I'm hearing  
12    conference over here.

13             MR. SABO: Sorry, Your Honor.

14      Q.     BY MR. BENTON: Referring to articles and print  
15    on the Internet basically referred to as "Death to the  
16    copper wires," I believe there is a surge today to  
17    basically do away with copper wires, and technology is  
18    advancing that the cellular phones that we have that are  
19    wireless now, our home phones and our computers could also  
20    be wireless.

21             Based on this possibly taking 15 years for some  
22    of us to pay off this debt, would it be possible that this  
23    would be outdated and not even in use anymore by the time  
24    we finished paying this debt?

25      A.     In my opinion, I think copper is going to be

1 around for a while. Okay? It's true that we are using  
2 fiber optics for additional bandwidth; however, you are  
3 talking about cell service, a majority of our cells are --  
4 that we provision for are provisioned using copper  
5 facilities or microwave facilities.

6 What you are talking about, using the Internet  
7 and voice transmission through voice-over-Internet  
8 protocol or VOIP. And it's possible that we just use --  
9 we use a combination of both copper and fiber mediums to  
10 provide service to the worldwide web.

11 MR. BENTON: Okay. Thank you. That was it.

12 ALJ HARPRING: Okay. Mr. Lorch.

13

14 CROSS-EXAMINATION

15

16 BY MR. LORCH:

17 Q. Thank you, Your Honor. Tom Lorch.

18 A. Hi, Tom.

19 Q. Hi, Mr. Kearns. I asked a question of APS, and I  
20 am sure it's in the documents; it's just a refresher.

21 How much money is Verizon putting into the  
22 underground conversion service area project for the  
23 telecommunications if it goes forward? How much of its  
24 own money for anything and everything?

25 A. I'm not aware of any money that Verizon would be

1 using that it's not going to be reimbursed that is within  
2 what we have given in the estimate.

3 Q Okay. I asked a question of APS, and did you do  
4 the same thing; did you have an approval list -- excuse  
5 me.

6 Well, let me ask it this way: Your  
7 subcontractors do your work for you or does Verizon do its  
8 own work?

9 A It depends.

10 Q Okay. This has to do with the question that was  
11 asked and Mr. Sabo elaborated quite a bit on the schedule.  
12 And it appeared to go out 18 months for completion of  
13 which I think your work was near the end and they were  
14 going to remove some poles.

15 How soon will you collect your costs or whatever  
16 it is and be prepared to issue assessment amounts and  
17 actually issue assessments?

18 A Well, normally our -- under contract with our  
19 subcontractors, we have them do the work and they have up  
20 to a year to bill us. Okay? So I would imagine that  
21 within a year of completion of the work we would be able  
22 to provide the cost to whomever in order for us to start  
23 recouping our investment.

24 Q So if you were 15 months out after approval, it  
25 might be as much as another 12 months before the

1 assessments went out?

2 A. It's possible.

3 Q. Do you have a minimum? Is that a longest time?

4 A. Yes. Normally that is all we will allow for.  
5 Our subcontractors to bill us anything beyond that, we  
6 refuse to pay it.

7 Q. Okay. Thank you.

8 One last question: If the UCSA project gets  
9 approved and goes forward, who owns the telecommunications  
10 equipment/wiring to the home, that is all the new stuff,  
11 or I guess it would be all the new equipment and new  
12 copper or conduit?

13 A. Verizon will own it up to the network interface  
14 device. That is the interface between the property  
15 owner's wiring equipment and Verizon's.

16 Q. Okay. That is my questions. Thank you.

17 A. You are welcome.

18 ALJ HARPRING: Mrs. Lorch.

19

20 CROSS-EXAMINATION

21

22 BY MRS. LORCH:

23 Q. Good afternoon, Mr. Kearns.

24 A. Good afternoon.

25 Q. Yes. I had a question of APS and then was told



1 by APS to ask you the question, so I'm going to ask you  
2 the question.

3 A. Okay.

4 Q. The question is: To the best your knowledge,  
5 will the current wood existing poles remain for use for  
6 Verizon?

7 A. Yes, they would.

8 Q. All right. Thank you.

9 A. You're welcome.

10 ALJ HARPRING: Okay.

11

12

EXAMINATION

13

14 BY ALJ HARPRING:

15 Q. Hi, Mr. Kearns.

16 A. Hi.

17 Q. Has Verizon's ability to pay for underground  
18 conversion changed since the prior hearing in the matter?

19 A. No, it hasn't.

20 Q. Okay. And has Verizon determined whether the  
21 cost estimates in the joint report are still sufficient to  
22 cover the work that must be done to complete the project?

23 A. Yes.

24 Q. And they are -- the cost estimates are  
25 sufficient?

1 A. Yes, they are sufficient.

2 Q. Okay. Have you reviewed the revised cost  
3 estimates that were prepared by Tades?

4 A. Briefly.

5 Q. Briefly? Have you reviewed them to the extent  
6 that you would be able to provide an opinion as to whether  
7 they include all the work that needs to be completed?

8 A. No. The only thing I can speak on, Judge, is  
9 what we have provided. And I know those are accurate at  
10 least up to what we feel is going to be the cost of the  
11 job, the true cost.

12 Q. When you say you know that those are accurate,  
13 you mean the ones that Verizon provided are accurate?

14 A. Yes. Yes.

15 Q. Okay. Mr. Lorch asked you whether Verizon does  
16 this type of work itself or whether it subcontracts and  
17 you said it depends --

18 A. Uh-huh.

19 Q. -- but I don't think he had you elaborate.

20 So in this particular situation, does Verizon  
21 intend to do the work itself or to subcontract it?

22 A. Okay. I will elaborate. Is that your question?

23 Q. Yes, please.

24 A. Okay. We do have equipment to do underground  
25 work to an extent. Okay? We can do some. We have a

1 backhoe. We could come out and do it. However, in our  
2 opinion it would not be cost effective -- I use that term  
3 cost effective -- for us to do that.

4 We would hire a company that does this on a  
5 normal day-to-day basis. What we would do is put this out  
6 to bid. We would have 15 or 20 different authorized  
7 vendors that we would be in the room, show them our plans  
8 and give them a date of when we need a cost back on what  
9 they are going to charge us.

10 Q. And is Tades an authorized vendor?

11 A. Not that I'm aware of.

12 Q. Okay. Previously, as I recall, you -- and you  
13 being Verizon -- and APS had reached an agreement  
14 concerning the trenching work and how those costs were  
15 going to be shared; is that correct?

16 A. Uh-huh.

17 Q. And that agreement, if I remember correctly, is  
18 that you were going to split those costs down the middle;  
19 is that correct?

20 A. In the conservation portion -- I'm sorry -- in  
21 the public portion.

22 Q. In the public portion?

23 A. In the public portion.

24 Q. Okay.

25 A. Because there was some concern with some folks

1 saying, well, if we didn't want service, why would I apply  
2 for the trenching? And I agree. We would go to the  
3 property line and stub out there.

4 In the event anyone that lived there in the  
5 future would like telephony service, a landline, all they  
6 have to do is trench that connection, replace the conduit,  
7 and they would pay for that.

8 Q Okay. APS's witness has testified that if this  
9 is approved APS will rebid for the work that needs to be  
10 done.

11 A I agree with that.

12 Q Okay. But Verizon is also going to rebid; is  
13 that correct?

14 A Yes, we would.

15 Q Independently?

16 A Yes, we can do that.

17 Q And what is your understanding in terms of who  
18 pays for any costs in excess of what Verizon included in  
19 its costs in the joint cost report?

20 A For the purpose of the statute of this  
21 proceeding, I believe that by statute we are -- we are  
22 held to whatever we have determined was going to be the  
23 cost. So anything going beyond that cost would be  
24 absorbed by Verizon.

25 Q And have you explored at all whether costs for

1 this type of work have changed since the previous  
2 estimates were provided?

3 A. I really haven't seen a big change from what I  
4 have looked at. I know the spot market on copper has gone  
5 down a bit since a couple years ago. I also know that  
6 labor prices have risen a little bit as well. So I'm  
7 thinking we're pretty close of what we estimated.

8 Q. Okay. I am completely unfamiliar with the  
9 application that Staff mentioned regarding the transfer of  
10 assets to Frontier.

11 Is it accurate to say that Verizon intends to  
12 transfer its service area -- its certificate of  
13 convenience and necessity service area, that includes  
14 Hillcrest Bay, to this other company?

15 A. I believe that is what it is. But I'm -- I  
16 really don't know the specifics as far as that goes. I  
17 know we are in negotiations with Frontier, we being  
18 Verizon as a national corporation. And that includes a  
19 certain amount of property.

20 MR. HALLAM: Your Honor?

21 ALJ HARPRING: Yes, Mr. Hallam.

22 MR. HALLAM: Sorry to interject.

23 ALJ HARPRING: No problem.

24 MR. HALLAM: To the extent -- we have a docket  
25 open with regard to that. So to the extent Your Honor

1 would like to take judicial notice of that docket, I'm  
2 happy to give you a docket number to be helpful.

3 ALJ HARPRING: That would be helpful.

4 What is it?

5 MR. HALLAM: And Mr. Fimbres will correct me if  
6 I'm wrong. I believe the last six numbers are 09-0274.

7 ALJ HARPRING: Okay. Does anyone have any  
8 objection to my taking official notice of the existence of  
9 the docket that includes an application by Verizon to, at  
10 the very least, transfer assets to Frontier?

11 MR. METLI: No objection.

12 MR. SABO: No objection.

13 MS. MITCHELL: No, Your Honor.

14 ALJ HARPRING: Anyone who is a property owner?  
15 (No response.)

16 ALJ HARPRING: Okay. Well, then, I will take  
17 official -- oh, Mr. Lorch. Yes?

18 MR. LORCH: I have a question along those lines  
19 of Mr. Kearns.

20 ALJ HARPRING: Do you have an objection or a  
21 question for Mr. Kearns?

22 MR. LORCH: No objection but a question.

23 ALJ HARPRING: I will call you when I am done.

24 Q BY ALJ HARPRING: To your knowledge, is Frontier  
25 aware of the pending petition in this matter?

1 A. I have no knowledge of that.

2 Q. Okay. Has Verizon's reliability information  
3 changed at all since the previous hearing in this matter?

4 A. No.

5 Q. Were there any unplanned communication service  
6 outages in Hillcrest Bay in 2008?

7 A. Not that I'm aware of.

8 Q. Have there been any in the first half of 2009?

9 A. Not that I know of.

10 Q. Do you know what the percentage of billing for  
11 Verizon is currently in Hillcrest Bay?

12 A. The last I checked I believe it was 34 percent.

13 Q. So that means that you lost some customers; is  
14 that correct?

15 A. I think we went down a few.

16 Q. I think previously you had testified it was 43.  
17 Does that sound right?

18 A. Yeah, that could be right.

19 Q. Okay. And has Verizon made any changes in the  
20 services that it offers in Hillcrest Bay since the date of  
21 the prior hearing in this matter?

22 A. No.

23 Q. So I have heard at least one person -- and I  
24 don't recall who it was -- state that letters had been  
25 sent by Verizon to customers indicating that Verizon would

1 no longer be providing long-distance service.

2           Could you explain to me why he would have said  
3 that?

4       A.     I would imagine you would have to go ask him, but  
5 what I know about it is -- I represent an ILEC, what they  
6 call an ILEC -- that is an incumbent line exchange  
7 carrier. And the long-distance aspect for Verizon is an  
8 IXC, or an interexchange carrier, which carries  
9 long-distance traffic. I deal primarily with intraLATA  
10 and certain interLATA services. So I -- that is basically  
11 all I know about that.

12       Q.     Okay. So you are not sure whether Verizon  
13 currently is offering long distance or not?

14       A.     In Arizona, I don't know.

15       Q.     And in Hillcrest Bay specifically you don't know?

16       A.     I don't know.

17           ALJ HARPRING: Okay. Mr. Lorch?

18           Mrs. Dodson, is your hand up because you want to  
19 come up too?

20           MRS. DODSON: Yes. Mine will be short.

21           ALJ HARPRING: Okay. And I see Mr. Garcia's hand  
22 as well.

23           Go ahead.

24

25



1 RECROSS-EXAMINATION

2

3 BY MR. LORCH:

4 Q Pardon my notes here on one question.

5 Are your landlines and long-distance cables the  
6 same or are they separate cables? And also I might as  
7 well as, what about Internet broadband?

8 A Well, let's do one at a time.

9 You asked -- you said are local and long-distance  
10 lines the same?

11 Your local line goes to an office, a central  
12 office, which is a switch and transports your signal. It  
13 gets on a long-haul line or an IXC line and transports  
14 that across out of boundaries to other service areas.  
15 Okay?

16 So I'm responsible for a portion, and the IXC is  
17 responsible for a portion.

18 Q It's the same for long distance or local -- your  
19 local calls?

20 A Your local calls are switched locally. Your  
21 long-distance calls go through different central  
22 offices -- different class central offices, and they are  
23 connected with what we call interoffice facilities. Okay?

24 But normally a lot of that traffic is handled by  
25 interexchange carriers, and that is their responsibility

1 and provision for that service.

2 ALJ HARPRING: Mr. Lorch, did you want to know  
3 whether the lines that Verizon currently has in Hillcrest  
4 Bay, the one that you see up in the air, carry both long  
5 distance and local?

6 THE WITNESS: Well, they are the same lines  
7 probably, yes -- but.

8 ALJ HARPRING: Is that the question?

9 Could you answer that?

10 THE WITNESS: Yeah. It's a medium. It's a way  
11 to transport your voice signal, you know, an analog signal  
12 across the wire.

13 So I'm thinking if it's what is the difference  
14 between long distance and local, it's the way it's  
15 provisioned and carried. All right?

16 I mean, the wires don't change. You can call  
17 locally. You can call long distance. But if you call  
18 locally, you go to a central office and back out someplace  
19 else, like if you are calling your neighbor. If you call  
20 across the United States, it's going through a whole  
21 myriad of different central offices until it gets to its  
22 final designation.

23 ALJ HARPRING: Does that answer your question?

24 MR. LORCH: Yes.

25 ALJ HARPRING: Go ahead.

1       Q.    BY MR. LORCH:  Okay.  Let's go to Internet  
2 broadband.

3               Some people -- I don't know if there is cable up  
4 there.  It must be satellite.  But if you were providing a  
5 TV -- Verizon does do like cable TV -- they would do the  
6 Internet broadband, which requires it to be in a certain  
7 distance from a station, 10 or 12 miles, whatever it is.

8               You don't have broadband -- my question is:  You  
9 don't have broadband into Hillcrest Bay at the present  
10 time?

11       A.    That's correct, we don't.

12       Q.    And if you did the undergrounding, would you be  
13 bringing in broadband?

14       A.    No, we wouldn't.

15       Q.    And the reason is?

16       A.    Cost.

17       Q.    Is there any nearby, broadband?

18       A.    No.

19       Q.    Is broadband in Parker?

20       A.    I don't think so.

21       Q.    You knock down Riverside Drive, across the street  
22 where the --

23       A.    I'm not sure.  I don't know if the central office  
24 is equipped for high-speed Internet or broadband service.

25       Q.    And Lake Havasu City?

1           A.     I'm not sure if they have it there or not.

2           Q.     Okay. So that is something to look into. It's  
3 not a question, but somebody should ask it.

4                     Why are you not doing it? It's everywhere for  
5 both cable TV.

6           A.     The way you are being serviced right now is we  
7 are use a multiplex system where we carry multiple voices  
8 over a pair of wires, copper wires. And that saves us a  
9 heck of a lot of money for the distances that we are  
10 traveling.

11                    Once we get to what is called a demultiplex, or  
12 we call it a MUX, that takes all those different voice  
13 bands off of the different frequencies and put them into  
14 specific wires that go from the MUX system to your house.

15           Q.     Okay. So right now do you know if it's a  
16 satellite that is going to Hillcrest Bay?

17           A.     I don't know if there is satellite up there or  
18 not.

19           Q.     Okay. Also, is there a limitation with all the  
20 types of phones people could get up there on how many  
21 lines they actually get per house? Like if you want to  
22 put four different phone lines in, you need four different  
23 twisted pairs or something like that. And it's 289, or  
24 whatever it is, 279 lots out there, you have the capacity  
25 right now to do that?

1       A.     Yes.

2       Q.     So you are not adding any more capacity if the  
3       UCSA project goes forward?

4       A.     No.

5             MR. LORCH: That's it. Thank you.

6             Mrs. Lorch.

7             MRS. LORCH: I don't have any.

8             ALJ HARPRING: I'm sorry. You didn't ask to come  
9       up this time, did you?

10            MRS. LORCH: No.

11            ALJ HARPRING: Mrs. Dodson did.

12            MRS. DODSON: Yes.

13            ALJ HARPRING: Thank you.

14

15                               RECROSS-EXAMINATION

16

17   BY MRS. DODSON:

18       Q.     Hi. My questions are very simple.

19       A.     How are you doing today?

20       Q.     I'm doing good.

21             And you?

22       A.     Not bad, thank you.

23       Q.     Okay. One is, the fiber optics, you mentioned  
24       that with the copper wire in the same breath.

25             Clarification: We are only getting copper wire

1 at Hillcrest Bay; correct?

2 A. Correct.

3 Q. Thank you. Next one is you mentioned the  
4 interface. I know what an interface is.

5 But you are talking about the box on the back --  
6 either on the pole or on the back of your house; correct?

7 A. Uh-huh. Yes.

8 Q. And any wire done beyond that is done by the  
9 customer or we pay Verizon?

10 A. Yes.

11 Q. And for you, I'm going to tell you -- I'm going  
12 to add this. This isn't a question, and I hope you don't  
13 mind.

14 However, the letter that I received from Verizon  
15 said that the State of Arizona was no longer going to be  
16 handling them as a long-distance carrier. So it wasn't  
17 just Hillcrest Bay and it wasn't just our area.

18 And perhaps since you are from California you  
19 weren't aware of that?

20 A. Well, I'm aware now.

21 Q. Yeah. Thank you.

22 A. Thank you.

23 ALJ HARPRING: Mr. Garcia.

24

25

## 1 RECROSS-EXAMINATION

2

3 BY MR. GARCIA:

4 Q It seemed like -- are you a party to the  
5 negotiations at all with Frontier and the section that  
6 they are thinking of acquiring from Verizon in our area?

7 A No.

8 Q You haven't been briefed or you have no knowledge  
9 of it?

10 A I know generalities.

11 Q It seems to me that this would be something that  
12 would have been -- that is material to this case.

13 ALJ HARPRING: Mr. Garcia, are you going to be  
14 asking questions?

15 MR. GARCIA: Yes.

16 Q BY MR. GARCIA: Do you feel that this  
17 undergrounding would be material to Frontier's willingness  
18 to acquire the assets?

19 MR. HALLAM: Your Honor, I'm going to object. He  
20 is asking him to speculate on what Frontier would feel.

21 ALJ HARPRING: Yeah, I think that calls for  
22 speculation that I don't suspect Mr. Kearns would be  
23 comfortable making, nor does it sound, since he has not  
24 been involved with negotiations directly, that he would  
25 have any basis to make that kind of speculation.

1           Q.     BY MR. GARCIA: Who would we talk to that has  
2     been in negotiations that could give us some idea of  
3     Verizon's position?

4           A.     You could probably go into your phone book or go  
5     on-line, verizon.com, okay, and inquire that way.

6           MR. GARCIA: All right. No further questions.

7           ALJ HARPRING: Okay. Mr. Dodson, I saw your  
8     hand.

9

10                                   CROSS-EXAMINATION

11

12     BY MR. DODSON:

13           Q.     Good afternoon.

14           A.     Good afternoon.

15           Q.     You may not be able to answer my questions.

16           A.     I may surprise you.

17           Q.     But we have heard testimony that this project, if  
18     it is approved, is going to be someplace down the line in  
19     time.

20                     If Verizon sells to Frontier tomorrow, what will  
21     happen? Will Frontier say we don't want anything to do  
22     with it or do we have any way of knowing that the project  
23     would go on?

24           A.     I can't answer for Frontier. I can't speculate  
25     what they are going to do or want to do with these



1 properties, if, in fact, this goes -- if the sale of  
2 Verizon properties to Frontier goes through and happens.

3 Q So we would be just out in limbo?

4 A No -- well, as long as we, Verizon, owns these  
5 facilities, we will maintain our facilities.

6 Q Well, what I'm saying is, if the project is  
7 decided to go tomorrow but it's not going to start for  
8 two years, will your obligation be passed on to Frontier  
9 to do this project?

10 MR. HALLAM: Your Honor, I'm going to object. It  
11 calls for speculation and also somewhat of a legal  
12 conclusion.

13 ALJ HARPRING: From what Mr. Kearns has stated  
14 thus far, he has not been involved in the negotiations and  
15 does not have personal knowledge of what has been  
16 happening in those negotiations, so I don't think that he  
17 has a factual background to answer your question.

18 And he is not an attorney; correct?

19 THE WITNESS: No, I'm not an attorney.

20 ALJ HARPRING: He is not an attorney, so he can't  
21 speak to the legalities of it.

22 MR. DODSON: Okay. Thank you.

23 THE WITNESS: Yes.

24 ALJ HARPRING: Mr. Lorch.

25 THE WITNESS: You know, if this was baseball, you

1 would be out, strike three.

2 MR. LORCH: For who?

3 THE WITNESS: Go ahead.

4

5 RECROSS-EXAMINATION

6

7 BY MR. LORCH:

8 Q. The recent questions you have been asked kind of  
9 alluded to something that probably are going -- somebody  
10 will say or object that you don't know, but there is this  
11 telecommunication act that is to increase competition or  
12 made it mandatory.

13 So do any other carriers have an opportunity to  
14 get involved in a situation -- say Frontier bids part of  
15 the Verizon stuff but not others, like AT&T or others that  
16 could actually get an entry or participate in any way to  
17 bid so that long-distance service gets guaranteed to  
18 Hillcrest Bay? And then also, would they be then --  
19 either have a right to install their lines in the  
20 trenching or to buy out either Verizon or Frontier?

21 MR. SABO: Objection.

22 MR. HALLAM: Your Honor --

23 ALJ HARPRING: You said it first, Mr. Sabo, so --

24 MR. SABO: Okay. Thank you, Your Honor.

25 I would object in that it's a lengthy, compound

1 question that also appears to call in part for a legal  
2 conclusion, and that it lastly seems to mix together the  
3 CLECs and ILECs.

4 ALJ HARPRING: And you, Mr. Hallam?

5 MR. HALLAM: Similar objection.

6 ALJ HARPRING: Okay.

7 MR. LORCH: It's compound, but I think he could  
8 answer.

9 MR. HALLAM: Your Honor, to the extent that there  
10 seems to be questions about this long-distance piece,  
11 although it's probably not appropriate, if you would like,  
12 I could speak to that application very briefly, but I'm  
13 not sure Mr. Kearns has sufficient knowledge to speak  
14 to -- although he very well understands  
15 telecommunications.

16 ALJ HARPRING: Yes, from what he has testified to  
17 thus far he really can't speak to the situation with  
18 Frontier because I think that we have pretty much tapped  
19 his personal knowledge.

20 Does that sound accurate?

21 THE WITNESS: That was, yes.

22 ALJ HARPRING: I would suggest, Mr. Lorch, if you  
23 want to hear a summary of what possibilities are available  
24 to competitive local exchange carriers in the Hillcrest  
25 Bay area that you ask Staff's witness.

1 MR. LORCH: Right now?

2 ALJ HARPRING: No, not right now. When he is up  
3 here. And I apologize, Mr. Fimbres, but I think he would  
4 be the appropriate person to speak to the presence of  
5 competition in Arizona.

6 MR. LORCH: Since you brought up the Staff, is it  
7 possible to question any of the Staff on this underground  
8 conversion service area in the hearing today?

9 ALJ HARPRING: Mr. Fimbres, although he had  
10 probably hoped not to come up to the witness stand, is  
11 actually going to come up to the witness stand because I  
12 have a few questions for him and others may as well. And  
13 Staff has very kindly made him available for that purpose.

14 So, yes, today you would be able to ask him  
15 questions.

16 MR. LORCH: Thank you.

17 ALJ HARPRING: Okay. Does anyone else currently  
18 have any questions for Mr. Kearns?

19 (No response.)

20 ALJ HARPRING: Seeing none, our court reporters  
21 have asked for a break, and I think that is really an  
22 excellent idea. We are going to take a recess until 3:30  
23 on this clock. We are in recess.

24 (Whereupon, a recess was taken from 3:19 p.m.  
25 until 3:30 p.m.)

1 ALJ HARPRING: Back on the record.

2 Please let the record show that right after I  
3 called the recess, I did acknowledge to Mr. Kearns that he  
4 could leave the witness stand.

5 So thank you, Mr. Kearns.

6 THE WITNESS: Thank you.

7 ALJ HARPRING: Staff, would you like to -- well,  
8 I'm not going to ask you if you'd like to; could you  
9 please call Mr. Fimbres?

10 MS. MITCHELL: Certainly, Judge Harpring. Staff  
11 would call Armando Fimbres to the stand.

12

13 ARMANDO FIMBRES,  
14 called as a witness herein, appearing on behalf of Staff,  
15 having been first duly sworn by the certified court  
16 reporter, was examined and testified as follows:

17

18 DIRECT EXAMINATION

19

20 BY MS. MITCHELL:

21 Q. Good afternoon, Mr. Fimbres.

22 A. Good afternoon.

23 Q. Could you please state your name and business  
24 address for the record?

25 A. My name is Armando Fimbres, 1200 West Washington,

1 Corporation Commission.

2 Q And in your employment with the Corporation  
3 Commission, what are your duties?

4 A I am a telecommunications analyst. I work on  
5 various applications, some having to do with complaints;  
6 some, such as the transfer application that was raised;  
7 also the long-distance applications, for example, some of  
8 them being new service applications for competitive local  
9 exchange carriers and some cancelations, and sometimes  
10 having to do with matters before the FCC.

11 Q And in the course of duties here at the  
12 Commission were you assigned to review the initial  
13 application by Verizon and APS for the establishment of an  
14 underground conversion service area?

15 A Along with my colleague, Richard Boyles, who has  
16 since retired, yes.

17 Q And you did not provide testimony on behalf of  
18 Staff in the first hearing in the matter, did you?

19 A His name is on the Staff report.

20 Q But you did not personally testify at the  
21 hearing?

22 A No, I did not.

23 Q All right. Thank you.

24 And in the course of your duties were you  
25 assigned to review the application for the transfer of

1 assets from Verizon to Frontier?

2 A. Yes. I'm the analyst assigned to that.

3 Q. And could you briefly summarize the subject  
4 matter of that application?

5 A. The subject of that application is the transfer  
6 of, or let's say, the acquisition of properties understood  
7 to be by the name Verizon California in Arizona, in La Paz  
8 County, to Frontier. That happens to be the Arizona part  
9 of a national transfer.

10 That is basically it. Those properties are going  
11 to be transferred or acquired by Frontier.

12 Q. Could you just briefly -- there were a couple  
13 questions asked by a property owner, Mr. Lorch I believe  
14 his name was, and Judge Harpring indicated that perhaps  
15 you could enlighten us all about the competition and the  
16 telecommunication services in Arizona.

17 Can you give some brief overview?

18 A. Well, I will say some things and anything else  
19 you can ask.

20 There is not a lot of wire line competition in  
21 the area we are talking about. I think that is  
22 understood, I think. In fact, I'm not sure there are any  
23 competitive local exchange carriers that are likely also  
24 wireless providers.

25 And so typically that there are any broadband or

1 could be a voice-over-the-Internet-protocol providers --

2 Q Let me stop you for a minute.

3 What is a competitive local exchange carrier?

4 A Those that have the carrier-of-last-resort  
5 obligation are known as incumbents, such as Verizon  
6 California in this case. Those that do not have that  
7 obligation but compete in the same services are known as  
8 competitive local exchange carriers. That is the  
9 difference.

10 Q Okay. I didn't mean to interrupt you, but it  
11 would be helpful.

12 A Let's see. I'm not sure. I guess it would be  
13 easiest to respond to questions on this.

14 Q So there was some indication from some of the  
15 property owners that they received letters concerning  
16 their long-distance services.

17 Are you familiar with that?

18 A Yes. So let me say, first of all, the  
19 application, Verizon's transfer to Frontier, is 09-0274.

20 The other long-distance, and the reason that  
21 Mr. Kearns may not know about it, is that it's really  
22 under -- those services -- those long-distance services  
23 are not ILEC services; they are services provided by two  
24 affiliates, also applications I'm handling. Staff has  
25 already filed Staff reports on those two. One is Verizon



1 Long Distance, I believe, and one is Verizon Enterprise  
2 Services, docket 08-05 -- it's even 73 or 93, and it's  
3 08-0594 or 73. Somebody can correct me from Verizon if I  
4 have got those last two just a little bit off.

5 But those are well underway. They are kind of on  
6 hold because of another matter. But they really don't  
7 pertain to the services of Verizon California.

8 MS. MITCHELL: All right. I don't really have  
9 any other questions for Mr. Fimbres since we did not file  
10 an updated Staff report nor any testimony, but Mr. Fimbres  
11 is available for questioning.

12 ALJ HARPRING: Mr. Metli, any questions?

13 MR. METLI: None, Your Honor.

14 ALJ HARPRING: Mr. Hallam?

15 MR. HALLAM: No objection.

16 ALJ HARPRING: Mr. Sabo?

17 MR. SABO: Thank you.

18

19 CROSS-EXAMINATION

20

21 BY MR. SABO:

22 Q Good afternoon, Mr. Fimbres.

23 A Good afternoon.

24 Q Does the Verizon Frontier application, does that  
25 include a request to transfer the incumbent or ILEC CC&Ns?

1 A. Well, to be exact, there are no CC&Ns, per se,  
2 involved, I don't think, because of the history of Verizon  
3 California, but they're authority, yes.

4 Q. Okay. And would it be the case that if such a  
5 transfer were approved, would it be likely that Frontier  
6 would offer long-distance service?

7 A. There is included in the application a transfer  
8 of long distance, but it doesn't pertain to Verizon  
9 California; it pertains to their two affiliates.

10 Q. Yes. Okay.

11 And is it -- does Staff typically recommend in an  
12 asset transfer situation that the entity buying the assets  
13 be required to apply without regulatory requirements that  
14 pertain to those systems?

15 A. Typically may not be the right word, but I cannot  
16 imagine we would not condition any recommendation for  
17 approval or anything other than that.

18 Q. Thank you.

19 MR. SABO: Those are my questions.

20 ALJ HARPRING: Okay. Do any property owner  
21 parties have questions for Mr. Fimbres?

22 Mr. Lorch and Mr. Benton.

23 Mr. Lorch, you can come on up.

24

25

## 1 CROSS-EXAMINATION

2

3 BY MR. LORCH:

4 Q. Thank you, Your Honor.

5 To start off, still going over again the criteria  
6 of not only the percentages in the petitions but economic  
7 and technology feasibility, particularly the issues on  
8 economic feasibility, and I raised the question earlier --  
9 Judge Harpring said ultimately that the Arizona  
10 Corporation Commission would make the decision on this --  
11 but the question is whether the Arizona Corporation  
12 Commission, based on the submittal, is going to be  
13 addressing the issue that I questioned earlier about the  
14 adequacy of the Hillcrest Bay, Inc.'s financial assistance  
15 program as far as what they have done.

16 You made a super effort really starting with no  
17 input from anyone and going to the County and the County  
18 supervisor and others looking for grants and whatever to  
19 come up with ways to get some moneys generated to really  
20 take it seriously.

21 So the question is: Is the Arizona Corporation  
22 Commission Staff going to be like evaluating that and  
23 making some statements or evaluation into the report to  
24 the Arizona Corporation Commission, even pending the  
25 Judge -- I guess it will be providing something also

1 before maybe even other reports are sent to the  
2 Commission?

3 A. So your question is about the assistance program?

4 Q. And whether you will be writing a report as well  
5 to the Commission on the assistance program that Hillcrest  
6 Bay has implemented?

7 A. We did not file any testimony on that. I don't  
8 think we said a lot about that in our attorney's brief. I  
9 suppose if Your Honor asked for more, then we would, but I  
10 don't think we had a lot to say on that.

11 Q. Well, my question at this point is: Are you  
12 going to say anything?

13 A. Actually I think my position would be, I'm not  
14 aware of any plans to say anything else.

15 Q. Okay. I guess there should be, but somebody --  
16 but some help because I don't think Hillcrest Bay -- I  
17 think they made a best effort.

18 ALJ HARPRING: Okay. Mr. Lorch, I will stop you  
19 there because right now you are testifying.

20 MR. LORCH: Can I ask another question now?

21 ALJ HARPRING: If it's a question, sure.

22 Q. BY MR. LORCH: You did in your report -- I think  
23 it's an updated report for this hearing -- the Commission  
24 Staff stated they did not think it was valid for -- or  
25 that it was valid only that the original signatures be

1 counted for percentages and that the other withdrawals  
2 were late and should not be counted.

3 Even though the Commission, I believe you said,  
4 also has the ability to consider them if they wish, but  
5 your position was that late withdrawals not be counted?

6 MR. SABO: Objection, Your Honor, I think this  
7 goes into the area set forth in Staff's legal brief and as  
8 to their legal analysis.

9 ALJ HARPRING: It does actually. The document  
10 that you are talking about is a prehearing brief that was  
11 written by Staff counsel, Ms. Mitchell, as opposed to  
12 testimony from Mr. Fimbres.

13 But to the extent that Mr. Fimbres has an opinion  
14 on what the current level of support is, if that is what  
15 you would like to know, I think he could provide that.

16 MR. LORCH: I think I know that.

17 ALJ HARPRING: Okay. Then do you have any  
18 additional questions for him?

19 MR. LORCH: No.

20 ALJ HARPRING: Okay. Thank you.

21 THE WITNESS: You are welcome.

22 ALJ HARPRING: Just to reiterate, while there may  
23 or may not -- I'm not sure -- be a finding of fact  
24 specifically regarding the adequacy of the Hillcrest Bay  
25 financial assistance program -- actually, I doubt there

1 would be a finding of fact specifically as to that.  
2 Because what is actually before the Commission is the  
3 entire project. It's not just certain components of the  
4 project. It's the whole thing.

5 So ultimately the Commission is going to make a  
6 decision on whether the whole thing should be approved or  
7 denied. And I think that the financial assistance program  
8 goes to the issue of economic feasibility, and so it would  
9 be discussed in that context. But there won't be a  
10 specific Commission order on the adequacy on the financial  
11 assistance program itself because it's only one piece of  
12 the puzzle.

13 Does that help you at all?

14 MR. LORCH: Sure.

15 ALJ HARPRING: It's the whole thing that is at  
16 issue.

17 Mr. Benton.

18

19 CROSS-EXAMINATION

20

21 BY MR. BENTON:

22 Q Good afternoon, Mr. Fimbres.

23 A Good afternoon.

24 Q You appear to be very knowledgeable in the  
25 telecommunications industry, and I'm sure a lot more than

1 I am.

2 My question would be -- and I somewhat touched on  
3 this earlier -- do you think it's possible right now or in  
4 the near future that every home in Hillcrest Bay could  
5 have Internet service and a home telephone without using  
6 the existing copper wires that are now on the property?

7 A. Well, that would -- it would be speculative on my  
8 part. I don't -- it's possible if the plans -- there are  
9 just so many ways to answer that. I would be speculating  
10 on what the providers intend to do.

11 Q. Okay. And in a total different direction -- I'm  
12 not sure if you are right person to ask this, but some of  
13 us have a question. For this project to go forward, as a  
14 member of Staff, we are confused. Is it 60 percent of the  
15 total homeowners that need to go forward or just  
16 60 percent of those that actually voted?

17 A. I think what we said in our original Staff report  
18 was 60 percent -- I'm telling you what I think was in the  
19 Staff report -- of those who -- of the entire parcels.  
20 And I believe our position in the brief, if it's  
21 appropriate for me to answer that, is we thought that  
22 really it should be 60 percent of all of those who  
23 voted -- of who could have voted, let me put it that way.

24 Does it make sense? 60 percent of those, like  
25 the 236, which was the parcel count.

1 Q So 60 percent of the total amount of homeowners,  
2 whether they voted or not?

3 A It's certainly up to the Commission's judgment  
4 ultimately, but that is the way, I believe, was our  
5 position in the brief. There is a table in there.

6 Q Okay. Thank you. That is all.

7 ALJ HARPRING: Any other property owner parties  
8 who have questions for Mr. Fimbres?

9 (No response.)

10 ALJ HARPRING: Okay. I have just a few.

11

12 EXAMINATION

13

14 BY ALJ HARPRING:

15 Q I thought that I heard Ms. Mitchell -- I think it  
16 was Ms. Mitchell -- mention yesterday that you had had  
17 occasion to review the property values and median home  
18 sales figures for Hillcrest Bay.

19 Is that true? Did you review those?

20 A Really, I did not.

21 Q You did not. Okay.

22 Do you have a copy of Staff's brief?

23 A Well, not with me.

24 Q Okay. Could you go get one?

25 A Sure, I could.



1 Q The reason I ask is because I would like you to  
2 explain the table in there, if you can.

3 ALJ HARPRING: Do the other parties have Staff's  
4 brief?

5 MR. SABO: Your Honor, are you referring to the  
6 table on page 5?

7 ALJ HARPRING: I am indeed.

8 MR. SABO: Thank you.

9 Q BY ALJ HARPRING: All right. So are you on page  
10 5?

11 A I am.

12 Q Okay. The first row says, "Parcel 274 in, no  
13 vote change," and then in parentheses it says "ROO," which  
14 generally we use to mean Recommended Opinion and Order.

15 Could you explain to me what Staff's breakdown of  
16 numbers in the next few columns means?

17 A What I believe they mean is that 149 voted yes of  
18 the 237 parcels, which is taken as a percent would be  
19 62.97 percent of the owners or parcels, it would say. And  
20 the square footage that would go with those votes would be  
21 59.6.

22 Q Maybe first I should ask you, did you participate  
23 in the creation of this table?

24 A Well, I didn't put it in the table, but the  
25 numbers I'm sure are mine.

1 Q Okay. The number of parcels, was it 237 at the  
2 time of the Recommended Opinion and Order?

3 A Actually I'm thinking it's 239, but -- 237, I  
4 don't remember exactly. It could have been 239, but it's  
5 in our Staff report as well.

6 Q Okay. Would that number have changed -- well,  
7 actually, why would that number have changed from then  
8 until now?

9 A Well, I don't know if it would have. If it's not  
10 the same, it's a mistake. That's all.

11 Q Okay. Do you have any recollection of any  
12 parcels that have combined since then?

13 A Since, yes, I do.

14 It's all on my computer, but somehow 50A makes  
15 sense to me. 52A was 52B and C. So there were two or  
16 three that were combined, and that is why you now see 236.

17 Q Down at the bottom of the table?

18 A Right. But -- I'm sorry.

19 Q So is the first row intended to reflect the  
20 information that was included in the Recommended Opinion  
21 and Order?

22 A Yes, I believe that is true.

23 Q Okay. And then the second row says, "Parcel 274  
24 in, no vote change, new petition."

25 What does that reflect?

1       A.     274 in, really only changes the parcel -- I mean  
2     it's in, so it doesn't change the parcel at all. And it  
3     continues to -- you see square footage. 129 is the number  
4     that lines up with the most recent petition.

5       Q.     Was that the July 2008 and thereafter petition?

6       A.     May and June, I believe, right? Yes, May and  
7     June. 129 is the number.

8       Q.     The one that Hillcrest Bay sent out after the  
9     open meeting?

10      A.     Yes. After the open meeting, yes, but they sent  
11     it out May of this year, or June of this year, whatever it  
12     was.

13      Q.     It was filed in the docket?

14      A.     Yes.

15      Q.     In May of this year?

16      A.     Yes. It's 129.

17      Q.     And then the percentage of owners is based on the  
18     237 number of parcels?

19      A.     Yes.

20      Q.     And then the square footage is based on including  
21     parcel 274?

22      A.     Yes, I believe that is correct.

23      Q.     And then the next row, "Parcel 274 in, vote  
24     change, new petition," what is the difference?

25      A.     Well, the 119 has to do with the yes to no and

1 when the cut-off date was, whether it was -- I forget the  
2 exact date or not, ten days before or something like that.

3 So we had it as 119. So that number, where you  
4 see it has gone down from 129 to 119, and the percent of  
5 the yes is 54.4 moving to 50.2 and so forth.

6 Q So does that reflect owners who after the new  
7 petition have indicated in some manner in writing that  
8 they no longer support the underground project?

9 A That's correct, but it really doesn't reflect all  
10 of them.

11 Q It does not?

12 A Like, I think I received one a couple days ago.

13 Q So this was filed on July 6th, 2009?

14 A Right. So most likely it reflects everything up  
15 to -- I probably gave Ms. Mitchell the previous filing or  
16 something.

17 My recollection is that there are another four.

18 Q Another four that --

19 A That changed.

20 Q That would reduce this number from 119 to 115?

21 A If they were counted.

22 Q If they were counted in here?

23 A Right.

24 Q But for purposes of this table, had those come  
25 in, you would have counted them?

1       A.     Well, we would have reflected them for the  
2 comparative information, yes.

3       Q.     Okay. And the next row, "Parcel 274 out, no vote  
4 change, new petition."

5       A.     Excuse me?

6       Q.     What does that reflect?

7       A.     Row 25 is no different than 22, with one  
8 exception and that is that 274 is out.

9       Q.     So the square footage has been reduced because  
10 274 was excluded, and as a result the numbers -- the  
11 percentages went up?

12      A.     The denominator changed.

13      Q.     Right. And the number of parcels changed because  
14 it excludes 274?

15      A.     Right.

16      Q.     Okay. And then finally, the final row, "Parcel  
17 274 out, vote change, new petition," that is the same as  
18 parcel 274 in except for the exclusion of parcel 274?

19      A.     That's correct. It -- the parcel 274 makes a  
20 very small difference in the denominator but makes a  
21 reasonable size difference in the square footage.

22      Q.     Okay.

23      A.     Yeah.

24      Q.     And this table was intended to show the current  
25 level of support as opposed to Staff's assessment of the

1 legal conclusion in terms of whether or not the threshold  
2 had been met.

3 Is that accurate? Does that make any sense at  
4 all?

5 MS. MITCHELL: Well, since you are asking him a  
6 legal question --

7 ALJ HARPRING: Well, it's not really a legal  
8 question. I'm asking -- well, did Staff intend for this  
9 to be taken as its legal position on whether or not  
10 withdrawals should be counted?

11 MS. MITCHELL: Your Honor, you know, the purpose  
12 of it was to answer the question, what is the current  
13 level of support among property owners for the underground  
14 conversion service area.

15 ALJ HARPRING: Right, which is not the same  
16 thing.

17 MS. MITCHELL: Not the same thing.

18 ALJ HARPRING: Yes, that is what I just asked  
19 him.

20 THE WITNESS: That was the point, I guess, to  
21 address that question.

22 Q BY ALJ HARPRING: You are not providing a legal  
23 opinion; you are saying this is what our count is?

24 A That is really, I think, what we did in our Staff  
25 report and as we look at numbers here again, yeah.

1           Q.     Okay. What is Staff's current recommendation?

2 Do you have one?

3           A.     I'm not sure that -- if there is not a  
4 recommendation in the brief, I'm not sure if it would be  
5 fair for me to say what the recommendation is.

6           Q.     Okay, I think Ms. Mitchell stated one earlier in  
7 the opening statement -- actually she stated the absence  
8 of the previous recommendation.

9                     Okay. But you weren't prepared to provide a  
10 recommendation?

11          A.     I'm not prepared. I certainly would answer if  
12 you want my personal opinion or something, perhaps, but  
13 Staff didn't say, here is our position.

14          Q.     Okay. No problem.

15                     Do you know whether Verizon has stopped offering  
16 long distance in Hillcrest Bay?

17          A.     Gee, I don't know. The notices went out.

18                     But, again, when we say "Verizon," we don't mean  
19 Verizon California. When people say that, they don't mean  
20 Verizon California. It's an --

21          Q.     It's an affiliate?

22          A.     It's an affiliate. And it's not that customers  
23 out there don't have long distance. There are many  
24 long-distance providers. So whether those customers made  
25 a decision to transfer their service already, they may

1 well have.

2 Q Okay.

3 A Because that notice went out quite a while ago.

4 Q So, to your knowledge, currently the property  
5 owners in Hillcrest Bay can still receive long-distance  
6 service from someone, it may not be Verizon's affiliate  
7 any longer, but from another long-distance carrier if not  
8 from Verizon's affiliate?

9 A That's correct. Right.

10 ALJ HARPRING: Okay. Thank you.

11 Ms. Mitchell, any questions for Mr. Fimbres?

12 MS. MITCHELL: No, Your Honor.

13 ALJ HARPRING: Mr. Metli?

14 MR. METLI: No, Your Honor.

15 ALJ HARPRING: Mr. Hallam?

16 MR. HALLAM: No, Judge.

17 ALJ HARPRING: Mr. Sabo?

18 MR. SABO: No, Your Honor.

19 ALJ HARPRING: Do any of the property owner  
20 parties have any more questions for Mr. Fimbres?

21 (No response.)

22 ALJ HARPRING: Okay. Thank you, Mr. Fimbres.

23 All right. Well, it is now time to start calling  
24 up additional property owners to provide their testimony.

25 And I would remind you all that if a property



1 owner who precedes you has provided all of the information  
2 that you feel needs to be provided, you can state that you  
3 support the testimony of or agree with the testimony of  
4 whomever. You don't have to do that, but certainly it  
5 would make things go more quickly if it is appropriate and  
6 accurate for you to do that.

7 So I will call you up actually in the order that  
8 I originally had you listed, since this actually doesn't  
9 have anything to do with cross-examining witnesses. So my  
10 first witness is Jane Sears.

11 MRS. SEARS: I have no testimony, Your Honor.

12 ALJ HARPRING: Okay. Did anyone have any  
13 questions for Mrs. Sears?

14 (No response.)

15 ALJ HARPRING: And seeing none, Mrs. Sears does  
16 not have to take the stand.

17 The next name is John Sears.

18 MR. SEARS: I'm fine, Your Honor. Thank you very  
19 much.

20 ALJ HARPRING: Okay. So Mr. Sears has indicated  
21 that he has provided all the testimony that he desires to  
22 provide.

23 Does anyone currently have any questions for  
24 Mr. Sears?

25 (No response.)

1 ALJ HARPRING: Okay. Seeing none, the next  
2 person is Ron Nelson.

3 MR. NELSON: Yes, I guess I do.

4

5 RON NELSON,  
6 called as a witness on his own behalf, having been first  
7 duly sworn by the certified court reporter, testified as  
8 follows:

9 ALJ HARPRING: So if you could just identify  
10 yourself again and then say your piece.

11

12 DIRECT TESTIMONY

13

14 MR. NELSON: My name is Ron Nelson. I live at  
15 835 Max View Drive, Parker, Arizona, Hillcrest Bay.

16 I believe very strongly that Hillcrest has the  
17 potential to become the premier spot on Lake Havasu.

18 In my opinion the existing poles and wires harm  
19 property values. Any additional lines will just add to  
20 the harm and our property values will diminish even  
21 farther.

22 The recession, to use this as a reason for  
23 denial, is a pretty nearsighted point of view. We will  
24 come out of the recession. I believe we have already hit  
25 bottom and have started to come up.

1           Some say status quo is okay. Well, it's just not  
2 status quo. It will be two times worse status quo doing  
3 harm to our community.

4           Some power poles and lines are out of easements.  
5 Some patios and houses are encroaching upon easements.  
6 This is nothing new. This has been going on for 10 or  
7 20 years, but solve this mess in a proactive manner.

8           I guess that is all I have.

9           ALJ HARPRING: Okay. Does anyone have any  
10 questions for Mr. Nelson?

11          MR. METLI: No, Your Honor.

12          ALJ HARPRING: Mr. Hallam?

13          MR. HALLAM: No, Judge.

14          ALJ HARPRING: Ms. Mitchell?

15          MS. MITCHELL: No, Your Honor.

16          ALJ HARPRING: Mr. Sabo?

17          MR. SABO: No, Your Honor.

18          ALJ HARPRING: Any other property owner party?

19               (No response.)

20          ALJ HARPRING: Okay. I don't either. Thank you,  
21 Mr. Nelson.

22          Next is Sylvia Nelson.

23          MRS. NELSON: Sylvia Nelson doesn't want to  
24 testify.

25          Does anyone have any questions for her?

1 MR. METLI: No, Your Honor.

2 MS. MITCHELL: No, Your Honor.

3 MR. HALLAM: No, Judge.

4 MR. SABO: No.

5 ALJ HARPRING: Okay. No one does, including me,  
6 so, Mrs. Nelson, you don't need to testify.

7 Tom Lorch, you are next.

8

9 TOM LORCH,

10 called as a witness on his own behalf, having been first  
11 duly sworn by the certified court reporter, testified as  
12 follows:

13

14 DIRECT TESTIMONY

15

16 MR. LORCH: My name is Tom Lorch, and have two  
17 lots, 238 and 239, in Hillcrest Bay.

18 Yes, Your Honor, I feel the required number of  
19 signatures in support of the UCSA was submitted in time  
20 for the hearing in 2008. I believe it's unfair to start  
21 over and ask lot owners again if they wish to participate  
22 or not.

23 And I just want to know how many times in these  
24 same proceedings is this going to be repeated and the  
25 approval of the underground conversion service area be put

1 off? It's obvious that over time lot owners and  
2 circumstances will change, but the deadlines have passed  
3 and all requirements have been submitted and met, and it's  
4 time to stop asking questions and to vote based on what  
5 was submitted, I think, for approval for the underground  
6 conversion service area.

7           Also, I believe to date economic feasibility to  
8 financially hard-pressed, hardshipped lot owner has been  
9 dealt with with funds established and pledges made that  
10 requested the lot owners there with procedures,  
11 investigations and the results completed. Yes, some  
12 additional decisions can be made once applications are  
13 approved and methods of assistance are determined within  
14 the availability of funds and over time.

15           I do not believe -- well, we both -- I speak for  
16 my wife in the letter I sent in -- but I don't believe  
17 that the minority should overrule the majority that voted  
18 for this underground service project.

19           That's it.

20           ALJ HARPRING: Okay. Mr. Metli, questions?

21           MR. METLI: No questions, Your Honor.

22           ALJ HARPRING: Mr. Hallam?

23           MR. HALLAM: No, Judge.

24           ALJ HARPRING: Ms. Mitchell?

25           MS. MITCHELL: No, Your Honor.

1 ALJ HARPRING: Mr. Sabo?

2 MR. SABO: No, Your Honor.

3 ALJ HARPRING: Property owner parties, questions  
4 for Mr. Lorch?

5 (No response.)

6 ALJ HARPRING: Okay. I don't have anything.

7 Thank you, Mr. Lorch.

8 MR. LORCH: Thank you.

9 ALJ HARPRING: Teddie Lorch.

10 MRS. LORCH: I support Mr. Lorch's testimony,  
11 Your Honor.

12 ALJ HARPRING: I'm afraid if you want to do that,  
13 you have to come up and say it up here --

14 MRS. LORCH: Okay.

15 ALJ HARPRING: -- as opposed to saying I don't  
16 want to say anything. Sorry.

17

18 TEDDIE LORCH,

19 called as a witness on her own behalf, having been first  
20 duly sworn by the certified court reporter, testified as  
21 follows:

22

23 DIRECT TESTIMONY

24

25 MRS. LORCH: My name is Teddie Lorch, and I

1 support the testimony of my husband, Tom Lorch.

2 ALJ HARPRING: Thank you, Mrs. Lorch.

3 Does anyone have any questions for Mrs. Lorch?

4 MR. METLI: No, Your Honor.

5 MR. HALLAM: No, Your Honor.

6 MS. MITCHELL: No, Your Honor.

7 MR. SABO: No, Your Honor.

8 ALJ HARPRING: And property owner parties?

9 (No response.)

10 ALJ HARPRING: Seeing none, thank you,  
11 Mrs. Lorch.

12 Next I have Phillip Garcia.

13 MR. GARCIA: I have nothing to add.

14 ALJ HARPRING: I actually -- I know he testified  
15 yesterday, but I have three questions for you. I'm sorry.

16 You are still under oath.

17 MR. GARCIA: Yes.

18

19 PHILIP J. GARCIA,

20 recalled as a witness, appearing on behalf of HBI, having  
21 been previously duly sworn by the certified court  
22 reporter, was examined and testified further as follows:

23

24

25

EXAMINATION

1

2 BY ALJ HARPRING:

3 Q My questions are, first, does the presence of a  
4 proposed lien or an actual lien on the property affect the  
5 value of the property?

6 A It doesn't affect the value of the property. It  
7 affects the amount of money that would be paid for it.

8 Q Could you elaborate?

9 A Let me see, how do I explain this?

10 A lien against a property is an obligation, the  
11 same as a mortgage. It doesn't make the house worth less,  
12 but it is an obligation that has to be paid.

13 So if you have a \$250,000 home and there is a  
14 \$200,000 mortgage against it, it doesn't mean that the  
15 house is worth \$50,000; it means it's worth \$250,000 in  
16 the open market. So the value doesn't change, but the  
17 obligation underneath changes.

18 Q Okay. Would it affect the price that a seller  
19 would list the home for?

20 A I don't think so.

21 Q Would it affect the price that the buyer would  
22 pay?

23 A It may.

24 Q And in what manner would it affect the price that  
25 the buyer would pay, in your opinion?



1       A.     He would know there is an obligation against it  
2     that was either paid by the seller upon transfer or that  
3     he would have to assume. So depending on how it was taken  
4     care of would make a difference of how much he paid for  
5     it. But it still wouldn't reduce the value, the open  
6     value of the property.

7       Q.     I understand what you are saying about that.

8             So, for example, with the \$250,000 house,  
9     assuming that there is a \$10,000 lien on the property --

10      A.     Yes.

11      Q.     -- are you saying that a buyer who would be  
12     expected to pay towards the lien after purchasing the  
13     property might only be willing to pay \$240,000 for the  
14     house?

15      A.     Something less.

16      Q.     Okay. As opposed to paying the full 250 because  
17     essentially another \$10,000 price is added?

18      A.     Exactly. I use the mortgage. When you buy a  
19     house, mortgages usually are paid off by the new loan from  
20     the new buyer.

21      Q.     But with a lien, it generally runs with the  
22     property, doesn't it?

23      A.     It does; although, you can make it part of the  
24     escrow. But the lien has to be cleared before you would  
25     agree to the terms.

1       Q.    When would a property owner realize a gain in  
2 property value?

3       A.    When would a property owner realize -- he would  
4 realize a gain upon sale.

5       Q.    So if the property owner were to intend to stay  
6 in a property, would the property owner realize any gain  
7 in property value?

8       A.    He would have intrinsic value increased. He  
9 wouldn't have cash in the bank --

10      Q.    Okay.

11      A.    -- increase. But his asset would be worth more.

12      Q.    Okay.

13      A.    It's an appreciating asset.

14      Q.    But for purposes of cash in hand, one would have  
15 to sell the property to realize the gain?

16      A.    To realize a gain, either under financial or tax  
17 accounting you would have to sell it to realize the gain.

18      Q.    Okay. Those were the questions that I had for  
19 you.

20      A.    Oh.

21           ALJ HARPRING: Does anyone else have questions  
22 for Mr. Garcia?

23           Mr. Metli?

24           MR. METLI: No, Your Honor.

25           ALJ HARPRING: Mr. Hallam?

1 MR. HALLAM: No, Your Honor.

2 ALJ HARPRING: Ms. Mitchell?

3 MS. MITCHELL: No, Your Honor.

4 ALJ HARPRING: Mr. Sabo?

5 MR. SABO: No, Your Honor.

6 ALJ HARPRING: I see Mrs. Dodson, and I see

7 Mr. Nelson. And was that it?

8 Okay. So Mrs. Dodson.

9

10 CROSS-EXAMINATION

11

12 BY MRS. DODSON:

13 Q. Hi. I just have one short question.

14 What about proposed liens? How do they affect a  
15 house for sale?

16 A. What is a proposed lien?

17 Q. We have them on our property now by Verizon.

18 A. Say it again.

19 Q. We have them on our property at the moment.

20 A. I wasn't aware of it.

21 Q. Obviously.

22 A. How much is the lien?

23 Q. Well, depends on what they liened you for. It's  
24 a proposed lien; it's not a true lien. But it does hold  
25 your title if you try to sell it.

1 This is testimony, so I probably shouldn't tell  
2 you. But I have an instance that it happened.

3 A. And that probably calls for a legal opinion and I  
4 can't give you that.

5 Q. I know. I just thought -- you gave your  
6 advice --

7 A. Example.

8 Q. -- you gave your opinion on what would happen if  
9 there was an actual lien, and I just wondered if you had  
10 any knowledge of the proposed liens that are now on our  
11 property?

12 A. No, I don't.

13 Q. Okay. Thank you.

14 ALJ HARPRING: Mr. Nelson.

15 MR. NELSON: I'm actually okay.

16 ALJ HARPRING: All right. Thank you, Mr. Garcia.

17 MR. GARCIA: Thank you.

18 ALJ HARPRING: And as I recall, Terence Bitrich  
19 was not here today; right? Okay.

20 Then Carole Jones.

21 MRS. JONES: No.

22 ALJ HARPRING: She has indicated that she does  
23 not want to testify.

24 Does anyone have any questions for Ms. Jones?

25 MR. METLI: No, Your Honor.

1 MR. HALLAM: No, Your Honor.

2 MS. MITCHELL: No, Your Honor.

3 MR. SABO: No, Your Honor.

4 ALJ HARPRING: Any other property owner parties  
5 have questions for Ms. Jones?

6 Okay. Ms. Jones, you don't have to testify.

7 Joy Muzic.

8

9 JOY MUZIC,

10 called as a witness on her own behalf, having been first  
11 duly sworn by the certified court reporter, testified and  
12 was examined as follows:

13

14 DIRECT TESTIMONY

15

16 MS. JOY MUZIC: Hello, Your Honor. My name is  
17 Joy Muzic. I'm the homeowner of lot 14A, 817 Bay View  
18 Drive, Hillcrest Bay.

19 I am opposed, I think you all know that by now,  
20 to the underground conversion for many reasons. As I have  
21 stated in my letters to the Commission in October of 2008  
22 and again in June of 2009, I still have many concerns and  
23 unanswered questions.

24 In reference to the petitions presented to this  
25 Commission, at the time of my first letter, which is

1 October of 2008, I stated that I had done research  
2 concerning these petitions and that La Paz did not verify  
3 any petition, other than the first one done in 2005/2006  
4 of which I have copies with me.

5           These are petitions that were first signed for  
6 the County to be involved in and to find out the cost of  
7 such underground conversion. That was all we were asked  
8 at that time. That was with Cliff Edey, the County  
9 supervisor. I believe Mr. D.L. Wilson was there, as we  
10 all were. It was at an annual meeting.

11           I have documentation here of a board meeting  
12 dated December 10th, 2006 that Mr. John Sears stated that  
13 on 11/21 the signed petitions were delivered. APS and  
14 Verizon now have 120 days -- and I'm quoting this -- to  
15 make a joint report of the costs to the assessor's office  
16 to verify that the County -- to verify the required number  
17 of signatures were present. I have that document also  
18 here.

19           I went to the County Assessor's office last  
20 October, and as I have previously stated to you in my  
21 letters, the County Assessor's office did not -- and I  
22 really repeat that -- did not receive any petitions other  
23 than the first petition. I have sent you copies of the  
24 letters from the County Assessor's office attesting to  
25 this fact.

1           After months requesting to see the petitions from  
2 the homeowners association, I was told in a letter dated  
3 June 2009 that the homeowners association board did not  
4 keep copies of these petitions. In my opinion, this is  
5 very questionable. In a project of this magnitude and  
6 cost, to me it is unthinkable that we have not kept a  
7 record of everything.

8           I also -- as previously stated in my letters, I  
9 contacted Mr. D.L. Wilson of APS who stated to me that he  
10 gave the names to La Paz County who were in favor of the  
11 project for verification. He also made a statement to me  
12 today.

13           Again, the County does not have a record of this.  
14 After three phone calls to Mr. Wilson he told me that his  
15 attorneys had instructed him to tell me to look on the  
16 line of AZ Corporation Commission docket and find the  
17 information on page 20. I have an e-mail from Mr. Wilson  
18 with those instructions.

19           I did also find that -- I did so and found that  
20 the list of clients were the ones that have accounts with  
21 APS and Hillcrest Bay. I may be wrong, and I can be  
22 because I'm not that good at a computer and reading this  
23 incorrectly, but in my opinion this is not a petition that  
24 I was requesting. I do have the page 20 of the E-Docket  
25 that I got, and all of those were the people that have or

1 get bills from APS for electricity on Hillcrest Bay.

2           This still brings to mind, as you all have heard  
3 me for the last two days, question the petitions  
4 themselves. The latest survey completed in August and  
5 September of 2008 was mailed to us and returned to  
6 somewhere in California to be tallied. I was told by  
7 Mr. John Sears at a board meeting that Grace Babcock, our  
8 president, was holding the envelopes but did not have  
9 copies, as they sent them to the Commission.

10           Recently we received a CD with all of those  
11 surveys from the attorney that the board of our homeowners  
12 association had hired to push the project through. It's  
13 amazing that the attorney had them but the copies were not  
14 available for any of our homeowners to see them until the  
15 Commission, I believe, ordered it, and I thank you for  
16 that.

17           As will you note, I realize this is not the law,  
18 but the signature was not requested to be notarized,  
19 witnessed or anything. Questionable? In my opinion it  
20 still is questionable.

21           I have to share with you that I did go yesterday.  
22 I did see the petitions that were presented to this  
23 Corporation Commission. They were dated 2006. I did not  
24 look at all of them, but I found enough of those that I  
25 knew were opposed to this project, and one who is here who



1 can attest that the signatures of this petition that were  
2 filed was that for the \$28,000 to be given back to the  
3 Hillcrest Bay and not for the petition to come to the  
4 Commission to start this project. And if you would like,  
5 I believe that that one that is here would attest to that.

6 The issue of the financial aid is also  
7 questionable, in my opinion. I have a lot of opinions, I  
8 think. I realize that Mr. John Sears stated that he has  
9 the commitment of \$15,000 from different homeowners to  
10 assist those in need. We as homeowners have not seen  
11 anything that verifies this.

12 The board took it upon themselves February of '08  
13 to consider using \$9,000 of our homeowners association  
14 moneys to help those who qualify. This was without a  
15 majority vote of the homeowners.

16 In June '08 they voted to move the \$9,000 into an  
17 account for that purpose. So that means that we couldn't  
18 have the money if we needed it; it was in a different  
19 account.

20 There is an article in our bylaws that states  
21 that the board can use up to \$9,000 for a specific item.  
22 I think Mr. John Sears was questioned yesterday about that  
23 item, and his statement was that it was specific for small  
24 things, I believe.

25 I have questioned this particular issue and was

1 told it was given to the attorney for clarification. As  
2 of this date -- and that is not true now because I heard  
3 this yesterday -- I have not received an answer regarding  
4 the spending of this -- I'm sorry, this is true. As of  
5 this date I have not received an answer regarding the  
6 spending of the money without the majority vote from the  
7 association as a whole.

8           As you are all aware, this is not figured into  
9 our individual cost per homeowner as well as the three  
10 lots the association owns; this will either have to be  
11 tagged on to our individual costs or the association fees  
12 are going up. And I did not put this in my letter here,  
13 but our board has voted yes on all three of the lots  
14 without any majority vote from our homeowners. So I  
15 really question those issues also.

16           I have qualified for programs provided by the gas  
17 company, Southern California, for low income in the state  
18 of California because my income meets the low-income  
19 criteria there, but under the homeowners I do not qualify.  
20 I did not receive an answer. I was told yesterday by  
21 Ms. Babcock that she received it late. I did not even get  
22 a response to that.

23           I am a widow who is trying to survive in this  
24 economy. I would like to keep my second home, which is  
25 our vacation home, which my husband and I worked for all

1 of our lives to be able to have.

2 We bought this property in 1970 before anything  
3 was developed and we waited three years for the  
4 electricity to be installed. My husband had the foresight  
5 to put our electricity underground paid for by us, nobody  
6 else. We had to pay for it so we would be considerate of  
7 others. Everyone who owns a home in Hillcrest Bay had  
8 that option when they bought the property. Whether it was  
9 there or not they could go back, and as was attested to,  
10 you could pay for it yourself.

11 I would also take issue with Enterprise  
12 Evaluation Association, Inc. Mr. Garcia is a property  
13 owner in Hillcrest Bay and is in favor of this proposal.  
14 I would, in my opinion, consider this a biased proposal as  
15 we all know that the property has depreciated  
16 approximately 50 percent, and only God knows when or if it  
17 will ever get back to its previous worth.

18 And in regards to the poles being placed, I think  
19 we have discussed that a lot. I still want this on the  
20 record. The association has not been told of the new  
21 technology or that Verizon has had articles in the  
22 LA Times business section, January 10, 2009, that in less  
23 than seven years they do not plan to have hard wire  
24 service. I do have that article here also.

25 So what will Verizon do then after we have paid a

1 great deal of money to put it underground? Just say no  
2 more or what is going to be that answer?

3 Also, is APS going to put up the 42 poles now or  
4 will it be over a period of 20 or 25 years or so when the  
5 hill fills up with our new homes? And I have seen that  
6 over the last 39 years of when those poles go in.

7 So I have been an original owner in Hillcrest Bay  
8 since its inception in 1970, and I have never seen a board  
9 spend so much money, of our hard-earned money that has  
10 been spent on trying to get this proposal passed. Even  
11 the homeowners' attorney is, as I read, trying to get this  
12 Commission to disallow the votes that have been changed  
13 recently to not be valid for the purpose of approving this  
14 project.

15 My husband and I served on this board many times  
16 in the past years: president, vice president, secretary  
17 and treasurer. My husband was just a member at large for  
18 many times. And we have spent our own moneys in the  
19 earlier years just to have electricity on our streetlights  
20 on a hill as the police and the fire requested so the  
21 people here would be safe, not to have the board and  
22 Mr. John Sears spend it on this proposal.

23 If this passes, we will be looking at not only  
24 this financial burden, but also our streets are in dire  
25 need of repair and we will have that burden also. This

1 association does not have nearly enough money to survive  
2 it all.

3 I would therefore like you to consider all of the  
4 alternatives to this project and make a recommendation of  
5 no for this proposal.

6 I would also like to go on record that I believe  
7 that based on the petition issues that I challenge the  
8 validity of that.

9 Thank you very much for your time.

10 ALJ HARPRING: Questions for Ms. Muzic?

11 MR. METLI: No, Your Honor.

12 MR. HALLAM: No, Your Honor.

13 MS. MITCHELL: No, Your Honor.

14 ALJ HARPRING: Mr. Sabo?

15 MR. SABO: No, Your Honor.

16 ALJ HARPRING: Any property owner parties have  
17 questions for Ms. Muzic?

18 Okay. Mr. Lorch and Mrs. Lorch and Mr. Benton.

19

20 CROSS-EXAMINATION

21

22 BY MR. LORCH:

23 Q. Thank you, Your Honor.

24 Ms. Muzic, do you know in that article about

25 discontinuing, I guess, regular phone service by Verizon

1 if they did give any information on what that is going to  
2 cost?

3 A. No, they did not. It was in the business section  
4 of the LA Times, but it did not say anything about cost.

5 Q. I thought Mr. Kearns had testified that he had  
6 had that question asked by somebody, and it was stated  
7 that there was no intention, at least of Verizon, to have  
8 any super service that does not use copper in the ground;  
9 that copper in the ground would be here forever.

10 But you are telling me that that article said  
11 differently?

12 A. I'm only telling you what I read, and I do have  
13 that article.

14 Q. So there is maybe a question there. Thank you.

15 A. You are welcome.

16 ALJ HARPRING: Mrs. Lorch.

17

18 CROSS-EXAMINATION

19

20 BY MRS. LORCH:

21 Q. Hello, Ms. Muzic.

22 A. Hello. How are you?

23 Q. Fine.

24 You said in your testimony that you had applied  
25 for San Diego Gas and Electric or APS or something?

1 A. The gas company.

2 Q. The gas company?

3 A. Southern California.

4 Q. Southern California, thank you for the  
5 clarification.

6 So because you said that, it brought to mind a  
7 question for me: Do you consider yourself a low-income  
8 homeowner?

9 A. I have Social Security. Evidentially I don't  
10 qualify for low income.

11 Q. So given the opportunity again would you apply  
12 for financial aid to lower your costs?

13 A. From Hillcrest Bay, I will try not to.

14 Q. Okay. So what I'm hearing you say then, this may  
15 be an issue not of economic feasibility but a question of  
16 lifestyle choice?

17 A. No, I do not believe that. I think that it is an  
18 economic feasibility when we all get to the point that we  
19 are living on Social Security. You know, that is an  
20 economic feasibility. If you are out there and only have  
21 Social Security to live on, then it's very difficult. And  
22 in this economy it is very struggling.

23 Q. Thank you.

24 A. You are welcome.

25 ALJ HARPRING: Mr. Benton.

## 1 CROSS-EXAMINATION

2

3 BY MR. BENTON:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. Did I hear you say that the homeowners

7 association itself owns three lots?

8 A. Yes.

9 Q. So these lots are not owned by private  
10 individuals?

11 A. That's correct. We own three.

12 Q. But yet these lots were used in favor of this  
13 count; is that correct?

14 A. Yes. That's correct.

15 Q. I find that very strange, but thank you.

16 A. That did not -- may I say something?

17 ALJ HARPRING: Sure.

18 THE WITNESS: That did not go before our majority  
19 of homeowners.

20 MR. BENTON: Thank you.

21 THE WITNESS: You're welcome.

22

23 EXAMINATION

24

25 BY ALJ HARPRING:



1       Q.    Ms. Muzic, did you hear the testimony yesterday  
2 about the threshold for qualifying for the low-income  
3 program?

4       A.    Yes, I did.

5       Q.    Did you look at the figures that they provided?

6       A.    I did not get a copy of those figures. As I  
7 stated and asked Ms. Babcock yesterday in reference to the  
8 questionnaire first, I asked what the criteria was, and I  
9 did not get a response from the board.

10      Q.    Okay. There should be up there in front of you  
11 somewhere an Exhibit H-4.

12      A.    Yes.

13      Q.    I hope this is the right document -- no, it's  
14 not.

15           ALJ HARPRING: Mr. Sabo, I'm sorry. I will have  
16 to ask you for help.

17           Where is the table of the federal poverty level?

18           MR. SABO: Your Honor, I believe that's on  
19 Exhibit H-5, and I think it's the last attachment to that  
20 exhibit.

21      Q.    BY ALJ HARPRING: I'm sorry. I led you astray.  
22 H-5, it looks like this.

23           Do you have that one?

24      A.    Yes, I do.

25      Q.    Okay. It's actually attachment 4. There is a

1 table, and the second to the last column to the right is  
2 if your monthly income is 185 percent of the federal  
3 poverty guidelines.

4 Do you see the figure that would correspond to  
5 your family size under that 185 percent?

6 A. My family size is me.

7 Q. So that would be one --

8 A. Correct.

9 Q. -- I believe. So it would be \$1,603 monthly  
10 income, is the threshold level for the low-income program.

11 A. Correct.

12 Q. Do you believe that you qualify for the  
13 low-income program on that basis?

14 A. Probably a little over.

15 Q. So you do not think that you do?

16 A. I do not.

17 Q. Okay. You said in your statement that you  
18 believe that the petitions that were submitted to the  
19 Commission were petitions for something else?

20 A. That's correct.

21 Q. Do you mean that they actually stated on them  
22 before they were signed that they had a different purpose  
23 than bringing this to the Commission?

24 A. No.

25 Q. So -- or do you mean that when people were asked

1 if they were supportive and asked to sign it, they were  
2 told that they were to accomplish something else?

3 A. I don't know what anyone was told.

4 I do know that that is why I have been keeping  
5 and trying to find out number one, two, or three petition  
6 is that we submitted in '05 a petition -- in '06 people  
7 signed -- and I do have those petitions, because I paid  
8 for them myself from the County to make sure what I was  
9 seeing and doing -- we had Cliff Edey and D.L. Wilson  
10 there, and I'm not certain if we had any others there --  
11 but to share with us. We were told then that the County  
12 would be involved and that we would look at the cost.

13 Q. Okay. I think, though, that that again was the  
14 first petition.

15 A. That was the first.

16 Q. That wasn't given to the Commission. It has  
17 nothing to do with the Commission's process.

18 A. That's correct.

19 Q. Okay.

20 A. The second petition was for a return of our  
21 \$28,000 that we had, as a homeowners association, given to  
22 APS to help with that situation. And we were told to sign  
23 this petition or asked to -- asked to sign this petition  
24 to refund the money so that the homeowners could get the  
25 money back.

1       Q     Okay. That is the one you say was for something  
2 other than what --

3       A     That is the one that I saw yesterday here from  
4 the Staff, because I had not been able to find the  
5 petition. I had gone to our homeowners meeting. I had  
6 requested it, wanting to know where the survey was. And  
7 Mr. Sears had told me that they didn't keep copies. Our  
8 homeowner association board did not keep copies. We sent  
9 them straight to the Commission.

10            So I took a look at those that the Commission had  
11 here yesterday. I found names that I know did not sign  
12 for -- a petition for this project, only signed a petition  
13 to receive our moneys back, which was \$28,000 from APS.  
14 So it would null and void all the County issues.

15       Q     Okay. So are you saying that you think that the  
16 petitions that these people's signatures are on were not  
17 actually signed by those people? Or are you saying that  
18 the petitions that their names were on used to say  
19 something different up at the top in terms of the  
20 justification or the reason for the petition?

21       A     It did not give a reason on it. It's just  
22 petitions there. And they look the same as the first  
23 petition, the same as the second one and the third. They  
24 used all the same petitions.

25            I do know for a fact, and one can attest here

1 today that it was signed for the return of the money but  
2 never signed for the project to come to the Commission.

3 Q Is it possible that the individual of whom you  
4 speak who has yet to testify to that, him or herself,  
5 simply misunderstood what was petition was for?

6 A I can't answer for the individual other than what  
7 I was told by that individual. You may ask that question  
8 to that person.

9 I have looked at other names, and I did see  
10 names, but they are not here to attest to anything, that I  
11 know personally.

12 Q And the petition that we are talking about right  
13 now, is this the petition that I have referred to as the  
14 second petition that caused APS and Verizon to apply here?

15 A I believe that is a correct statement. That is  
16 what I have been trying to find out for two days.

17 Q So I believe that Mr. Metli actually has a copy  
18 with him of all of those petitions with all of those  
19 signatures.

20 So would you like to take a look at those?

21 A I certainly would. I mean, I have -- I did look  
22 at the Staff's books to see.

23 ALJ HARPRING: Okay. Mr. Metli, could you please  
24 approach.

25 MR. METLI: I will. And for the record, it's

1 Exhibit A-01.

2 ALJ HARPRING: And it was a portion of the  
3 application?

4 MR. METLI: It was a portion of the application.  
5 And just for reference for her, the petitions are in tab 2  
6 and 5.

7 ALJ HARPRING: Okay. Thank you.

8 A-01, that is what you said, Mr. Metli?

9 MR. METLI: Yes.

10 THE WITNESS: This may take a few minutes.

11 Q. BY ALJ HARPRING: I don't need you to scrutinize  
12 every piece of paper. What I want you to do really is  
13 look at the petition and see if it says on it what it is  
14 for.

15 A. It says Hillcrest Bay Underground Conversion  
16 Service Area.

17 Q. Is there more? I believe there is almost a  
18 paragraph at the top.

19 Does that explain anything?

20 A. Would you like me to read it all?

21 Q. Sure.

22 A. "Within the boundaries proposed, as describe in  
23 the legal description, we, the undersigned, as property  
24 owners in the proposed Hillcrest Bay Underground  
25 Conversion" -- I'm sorry. I can't read, I guess -- "in

1 the legal description attached hereto, marked Exhibit  
2 A and made part hereof, and shown in the map attached  
3 hereto, marked Exhibit B and made part hereto, request of  
4 the public service corporation to make a study of the  
5 costs which will be related to the establishment of such  
6 area as an underground conversion area, the names and  
7 address of the owner of each parcel or lot within the  
8 proposed service area as reflected on the written records  
9 of the County Assessor is attached hereto, marked Exhibit  
10 C and made part hereof.

11 "The public convenience was necessarily or  
12 welfare will be promoted by the establishment of the  
13 underground conversion service area and property to be  
14 included therein will be benefited. The necessity for  
15 proposed underground conversion service area is existing  
16 overhead facilities intrude into terraced lot views of  
17 Lake Havasu and surrounding mountains reducing value of  
18 properties.

19 "APS anticipates replacement of some overhead  
20 facilities in front of the lot location to facilitate  
21 future maintenance and upgrades. Underground conversion  
22 at this time will minimize future investments by the  
23 utilities and benefit property owners by restoring  
24 unobstructed views and increase property values."

25 Q Okay. So in your opinion does that explain the

1 purpose of that petition?

2 A. Yes, it does.

3 Q. Okay. And I believe that was the first petition.

4 MR. METLI: Yes, Your Honor.

5 Q. BY ALJ HARPRING: And Mr. Metli said that the  
6 second petition is at tab 5.

7 MR. METLI: Yes, Your Honor.

8 Q. BY ALJ HARPRING: Do you want to take a look at  
9 those? And you don't need to read for me, but just verify  
10 for yourself whether the petition forms located at tab 5  
11 also have an explanation of the purpose of the petition.

12 A. Yes, it does.

13 Q. So do you believe that people who did sign were  
14 given an opportunity to see what it was they were asking  
15 for through their signature?

16 A. I can't -- I cannot attest to what other  
17 people -- if they read it. I can only ask, and I cannot  
18 attest that I looked at the small print of the first one.  
19 I was asked to sign it. I refused to. So my signature  
20 isn't anywhere. Because after the first one, no more. So  
21 I did not.

22 So you can -- I don't know that answer.

23 Q. Okay. Would you agree, though, that the  
24 information about the purpose of the petition was  
25 available to people if they were asked to sign it?



1           A.     It was here.

2                     I was stopped going down the street in my car, so

3 I can't answer whether I would have read it or not.

4           Q.     And that article you mentioned regarding Verizon?

5           A.     Yes.   Yes.

6           Q.     We heard testimony earlier that Verizon is  
7 currently engaged in negotiations to sell its facilities.

8                     Would that be consistent with the article you  
9 read, if they are going sell their facilities to another  
10 company?

11          A.     I don't know.   The article just talked about not  
12 having the hard lines.

13          Q.     Okay.   Okay.

14                     ALJ HARPRING:   All right.   Does anyone else have  
15 any questions for Ms. Muzic?

16                     Okay, Mr. Nelson.

17

18                                     CROSS-EXAMINATION

19

20 BY MR. NELSON:

21          Q.     Hi.

22          A.     Hi.

23          Q.     You stated that you been here since Hillcrest Bay  
24 started?

25          A.     That's correct.   I bought that from Max Dunlap

1 who expired last night.

2 Q Were you involved in any discussions or possibly  
3 votes about changing Hillcrest Bay's original design for  
4 underground utilities to overhead facilities?

5 A No. No.

6 ALJ HARPRING: Okay. Any additional questions  
7 for Ms. Muzic?

8 Mr. Benton.

9

10 CROSS-EXAMINATION

11

12 BY MR. BENTON:

13 Q Ms. Muzic, that quite lengthy paragraph that you  
14 just read, in your opinion, was that basically -- appear  
15 to be a study just to find out what the cost would be?

16 A Yes. I would say that that is probably what they  
17 wanted. I would say that is my own opinion. I can't say  
18 more because the second one is what is there to --

19 Q It sounded to me that that was maybe a petition  
20 just to see what the cost would be, not a yes or no  
21 whether they would go forward with the project.

22 Would you agree with that?

23 A In my opinion, yes, but that is just my opinion.

24 ALJ HARPRING: Mr. Benton, do you want to have  
25 her read the second one, the information at the top of the

1 second petition?

2 MR. BENTON: I don't know if that is necessary.

3 I assume that that one is a little more clearer than  
4 possibly that first one was.

5 ALJ HARPRING: Okay.

6 MR. BENTON: Thank you.

7 ALJ HARPRING: Any additional questions for  
8 Ms. Muzic?

9 MR. METLI: Your Honor, I have one question.

10

11 CROSS-EXAMINATION

12

13 BY MR. METLI:

14 Q. Ms. Muzic, you testified that you received a  
15 letter from the County Assessor's Office that they had  
16 never seen the petitions.

17 Was that your testimony?

18 A. I do have them, and the Commission also has them.  
19 I sent them to Commission from the County Assessor  
20 George Nault, himself, and from his Staff there.

21 Q. That binder that I just provided to you, would  
22 you please turn to tab 5?

23 A. Yes, I'm will.

24 Q. Okay. The top page should be a letter from  
25 George Nault.

1 Do you see that?

2 A. Yes, I do.

3 Q. And can you just read for me into the record  
4 after "Dear Mr. Wilson," that one sentence that Mr. Nault  
5 wrote?

6 A. "I, George Nault, certify that the copies of the  
7 petitions for the property owners of Hillcrest Bay are  
8 correct as stated with the address to the best of my  
9 knowledge at this time, Sincerely, George Nault."

10 Q. So you would agree with me that with respect to  
11 the petitions that follow this letter that the County  
12 Assessor did review them and certify them?

13 A. This letter states that also.

14 Q. Thank you.

15 MR. METLI: I have nothing further, Your Honor.  
16 Thank you.

17 ALJ HARPRING: Okay. Anyone else?

18 (No response.)

19 ALJ HARPRING: All right. Thank you, Ms. Muzic.

20 And next is Lynne Muzic.

21

22 LYNNE MUZIC,

23 called as a witness on her own behalf, having been first  
24 duly sworn by the certified court reporter, testified as  
25 follows:

## 1 DIRECT TESTIMONY

2

3 MS. LYNNE MUZIC: Hi. My name is Lynne Muzic. I  
4 own lot 15 and 47A, my husband and I, I should say. My  
5 husband and I oppose the underground project in Hillcrest  
6 Bay in Parker.

7 In 1970 we bought property in Hillcrest Bay and  
8 shortly after we put on our home. My husband along with  
9 our neighbors on either side put our utilities underground  
10 so that our neighbors would not have to look at the wires  
11 and neither would we. Any new homeowners could have done  
12 the same and still can.

13 Now almost 40 years later we are being asked to  
14 finance a project to put our utilities underground again.

15 My husband and I owned a business for 37 years.  
16 With the bad economy we were forced to close it almost  
17 two years ago. Also my husband had two heart attacks and  
18 a quintuple heart bypass that has added even more  
19 financial hardship and stress. We are now living on a  
20 fixed income and barely making ends meet.

21 The board proposes to allow us to finance the  
22 project by making monthly payments in an undetermined  
23 interest. Some payments of 200 to 300 will be owed per  
24 month, not including the actual utility costs, which is  
25 clearly out of our budget. And if we chose to sell in

1 this economy, it would be impossible.

2 My husband and I have served on the board many  
3 times over the past 40 years, and we have never seen a  
4 board spend as much money, of our hard-earned money than  
5 has been spent on trying to pass this proposal. In the  
6 early years we spent our own money just to get electricity  
7 on the hill, as Joy has stated.

8 We and many of our homeowners of Hillcrest Bay  
9 believe that the information has been gathered in a biased  
10 manner in favor of the underground utilities. We have had  
11 certain -- we have had concerns regarding the way in which  
12 the initial petitions were obtained. The board says that  
13 it does not save copies of the petitions, which is  
14 questionable and we also question that.

15 The Commission requested there be a plan to help  
16 the homeowners who may need financial assistance.  
17 Mr. Sears stated he has commitments from \$15,000 from  
18 different homeowners to assist those in need. To our  
19 knowledge the criteria has not really been established,  
20 except that the CPA has assisted the applicant. Again, we  
21 question this process.

22 As for the poles being placed in Hillcrest Bay,  
23 the only time that any kind of layout of the poles was  
24 sent to the homeowners was in 2005 by D.L. Wilson from  
25 APS, and this was a preliminary layout. No one, other

1 than Mr. Sears and possibly some of the board, have seen  
2 this layout. As of September 28, 2008's annual meeting no  
3 alternative action or plan is being looked into.

4 Also, people at the meeting were not being told  
5 of any new wireless technology or that solar will become  
6 even more affordable. This may be an alternative to where  
7 the money needs to be spent to save both energy and money.  
8 But instead an exorbitant amount money is being spent for  
9 a luxury and an amenity.

10 Also I question the feasibility of the cost  
11 estimate by Tades Construction's report date May 7, 2009.  
12 As I spoke earlier, my sister-in-law, Joy Muzic, has the  
13 property next door, lot 14A, and has an electrical cost of  
14 \$700 while our lot has an electric cost of \$3,317.50. Why  
15 is our electric bill \$2,617.50 more than hers?

16 This underground project should be put on a halt  
17 due to the financial burden it places on each homeowner.  
18 Our economy is still in a tailspin and our conditions are  
19 worse than when the committee met in July of 2008. Real  
20 estate is up 30 to 50 percent. The stock market has  
21 reached all time highs and losses. Now up to 33 percent  
22 of many retirement funds are gone. The thought of this  
23 project is still too costly and will cost someone their  
24 home or investment.

25 I also want to address the fact that the board is

1 operating illegally. While there was an annual meeting on  
2 September 28, 2008, they did not hold an election, which  
3 is strictly against our bylaws and I think Arizona  
4 Corporate Commission.

5 We are opposed to the underground utility  
6 project, and we would therefore like you to reconsider all  
7 the alternatives of this project and make a recommendation  
8 of no on this proposal. Thank you for your consideration  
9 in this matter.

10 ALJ HARPRING: Any questions for Ms. Muzic?

11 MR. METLI: No questions, Your Honor.

12 MR. HALLAM: No, Judge.

13 MS. MITCHELL: No, Your Honor.

14 ALJ HARPRING: Mr. Sabo?

15 MR. SABO: No, Your Honor.

16 ALJ HARPRING: Any of the property owner parties  
17 have questions for Ms. Muzic?

18 Okay. Thank you.

19 Billie Dodson.

20

21 BILLIE DODSON,

22 called as a witness on her own behalf, having been first  
23 duly sworn by the certified court reporter, testified and  
24 was examined as follows:

25



## 1 DIRECT TESTIMONY

2

3 MRS. DODSON: Mine will be very short, what I'm  
4 going to say; however, I have some information. I don't  
5 know where to put it, after my statement or before.

6 After my statement?

7 ALJ HARPRING: After is fine.

8 MRS. DODSON: Okay. I have owned a home in  
9 Hillcrest Bay for 35 years. I retired and moved there  
10 11 years ago. I have a fixed income and do not have a  
11 view lot. I do not have bird droppings and no hanging or  
12 dangerous lines.

13 For me the benefits do not outweigh the costs.  
14 It has been said it's only for 15 years if you finance it.  
15 Well, guess what? That is for the rest of my life.

16 And like the people that have two homes, I only  
17 have one. It has been said that the value of my property  
18 might go up, and I am not planning on moving, so how does  
19 this benefit me?

20 I know my mobile is old and maybe don't meet the  
21 standards to some, but it's what I can afford. I live and  
22 vote in the state of Arizona and would like to live in  
23 Hillcrest Bay as long as possible.

24 It seems that there is a chance that we could  
25 bury the electrical and would still have telephone poles

1 lines if Frontier does not want the project, thus I would  
2 be paying for nothing.

3 Okay. Do you want me to go ahead with the rest  
4 of it or --

5 ALJ HARPRING: Were you going to tell me about  
6 the documents that you brought?

7 MRS. DODSON: Yes.

8 ALJ HARPRING: You can tell me.

9 MRS. DODSON: All right. Yesterday you were  
10 asking Ms. Babcock about some information that you wished  
11 to have, so I brought that for you today.

12 In the last year two homes have been sold. Six  
13 properties were quickclaimed. Four homes are now in  
14 foreclosure, and I have the copies of the foreclosures  
15 here if you need to see them. There are 16 homes for sale  
16 and 53 permanent residents at this time. We do have  
17 people that move in and out, so sometimes it's hard for me  
18 to -- we have quite a few rentals at the present time  
19 because some people could not sell their homes and  
20 therefore removed them from the market and now they are  
21 renting.

22 I have brought along also the brochure from the  
23 real estate to show how the real estate has gone down on  
24 some of these homes, you know, 50- to \$100,000 since they  
25 have had them on sale. You know, that might give you an

1 idea of what we have done.

2 So that is all I have to say unless you would  
3 like me to say something.

4 ALJ HARPRING: Did you happen to compile an  
5 actual list of owners who are -- not owners, of the homes  
6 that have full-time residents?

7 MRS. DODSON: I did not mark them, no.

8 Did you want me to? I did not do that. I did  
9 have a map here, if I didn't lose it, that tells you --  
10 well, yeah, it tells you some of the information, for sale  
11 and, you know, vacant lots and so forth.

12 Also, I brought the County Recorder so you could  
13 see one of the ways that I determined if people have sold,  
14 quitclaimed, and so forth.

15 Another way that I determined that is that escrow  
16 will send me a copy of the escrow papers when they get a  
17 new owner. They do that because they want to know if  
18 there is any debt, like dues, owing against it.

19 I also get them when they are in foreclosure.  
20 They send me the foreclosure papers for the same reason.

21 We would like to add one thing. This year, I  
22 think it was February or so, there was a house for sale  
23 and it fell out of escrow and the homeowner called me,  
24 because I am one of the board members that is there  
25 full-time so I'm visible. She was very angry because it

1 fell out of escrow because when they did the title search,  
2 there were proposed liens against it.

3 Now, I know these proposed liens can be removed  
4 to either get a loan or to sell your house and then they  
5 are put back on, but that is one of the fallouts from  
6 this.

7

8

EXAMINATION

9

10 BY ALJ HARPRING:

11 Q Mrs. Dodson, what is your role with the board  
12 currently?

13 A I'm treasurer.

14 Q Okay.

15 A Do you have any questions? I have lots of  
16 information if you need anything.

17 Q Okay.

18 A I heard you ask yesterday about the board  
19 members. I can tell you how many are permanent residents.  
20 There are three of us permanent. There are two that live  
21 in California and have vacation homes. There are four --  
22 there are eight of us that have two homes so they spend  
23 part of their time in Arizona and part of it in  
24 California.

25 Q Okay. The documents that you have there, were

1 those documents that you wanted to have entered into  
2 evidence or did you bring them just for your own  
3 reference?

4 A. The ones on foreclosure, I would like to have  
5 back so I can put them in my records because I do keep  
6 copies of the foreclosures. But it's just proof of what I  
7 said, you know, that they are foreclosures.

8 Q. Is that information going to be available in the  
9 Recorder documents that I have asked HBI to provide for  
10 the past year and a half -- or I'm sorry -- year, July 1,  
11 2008 to the present?

12 A. I don't know.

13 Q. You don't know?

14 A. Because I'm against, so I'm on the other side of  
15 the fence here.

16 Q. But the information that you have, did it come  
17 from that document that Ms. Babcock referred to as the  
18 Recorder and that you referred to as the Recorder?

19 A. No. Some of it came -- the Public Recorder comes  
20 from the County. It's where any legal stuff is recorded,  
21 such as divorces, criminal, so forth.

22 In that it will list anybody that does anything  
23 with their lot, such as refinancing. In fact, that is  
24 where I first saw the proposed liens on our property.

25 Okay?

1           And it will tell you, for instance, there is a  
2 new owner. What I normally do then is I call the County  
3 Assessor and I tell her I have a -- I give her the parcel  
4 number and have her check and tell me if there is a new  
5 owner. Because you read it doesn't mean that it went  
6 through; it could be flawed.

7           So I kind of go by the fact that once I get a  
8 hint of somebody moving in, that is the same thing -- I  
9 think you heard me say that I walk the park every day. If  
10 I see a new owner, I do get inquisitive and say, oh, are  
11 you a new owner? Then I will call. If they say yes, I  
12 will go and call and see, well, did they own the property?  
13 What is the name of the owner? What is their mailing  
14 address? That is how I keep current.

15           Escrow still does the same thing. When they send  
16 me -- they will send me a letter when they are going  
17 through escrow saying, is there any information, you know,  
18 like do you have a lien on them? Do they owe dues that  
19 need to come out of escrow?

20           There again, I will hold on to that information.  
21 If it does not appear as a sold, I will still call the  
22 County and say to them, has this property -- what is the  
23 name of the owner on this property?

24           Q. Okay. What I want to know, apparently when I get  
25 the Recorder documents from HBI, I will be able to tell

1 which homes have been foreclosed and I will be able to  
2 tell which homes have sold and for how much; is that  
3 correct?

4 A. You can, or I have three of the four foreclosures  
5 right here.

6 Q. Then what we will do, our court reporters need a  
7 break. They have already told me, and I could use one  
8 myself.

9 What I want for you to do, Mrs. Dodson, is  
10 actually talk to Mr. Sabo, share those documents with him.

11 The information that I want ultimately and that I  
12 was going to ask HBI for, although they don't seem to  
13 think they have the information -- you are part of HBI.  
14 You are the board.

15 A. I am, but I'm willing to answer questions. I'm  
16 very open. You can call me and ask me.

17 Q. Well, I can't call anybody.

18 A. Well, I don't mean you personally. I mean any  
19 member of the board or the general membership may call me.

20 Q. I would like for the board to provide me the list  
21 of full-time residents by parcel number and name, the list  
22 of properties that are currently being rented by parcel  
23 number and name, and a list of vacant properties, again by  
24 parcel number and name. And I want the list of the  
25 foreclosures that have already occurred and the

1 foreclosures that are pending.

2 A. And can I send that into you then? It's  
3 ultimately going to go through me, I am suspecting.

4 Q. Okay. Why don't the two of you during the break  
5 discuss this and figure out how the board can make this  
6 happen.

7 A. Okay.

8 Q. Okay.

9 A. As far as getting the renters are concerned,  
10 there is no way that I can tell a place is rented without  
11 going to that person and seeing them and saying, well,  
12 they are a new face. For instance, there is one in there  
13 that just rented two weeks ago to a California couple. I  
14 saw them unloading the furniture. So I said, "Oh, are you  
15 new owners?"

16 "No, we are renting." So that gives me insight.

17 Q. So you have personal information that perhaps the  
18 other members of the board don't have?

19 A. Yeah. I can ask around and see.

20 Q. We can talk when you come back. I really do want  
21 you to talk to Mr. Sabo about how this evidence can be  
22 provided. So we will take a break until 5:15 on that  
23 clock, and when we come back you will still be up here and  
24 you both are going to tell me how I'm going to get that  
25 information.



1 MR. SABO: And, Your Honor, you wanted that by  
2 parcel number? Was it person's name or street address?

3 ALJ HARPRING: Parcel number, property owner  
4 name.

5 MR. SABO: Okay.

6 ALJ HARPRING: Because when you get into street  
7 addresses, there seem to be discrepancies.

8 So we are in recess until 5:15 on that clock.  
9 Thank you.

10 (Whereupon, a recess was taken from 5:02 p.m.  
11 until 5:14 p.m.)

12 ALJ HARPRING: Okay. We are back on the record.

13 Mr. Sabo and Mrs. Dodson have informed me that  
14 Mr. Fimbres of Staff has kindly agreed to make copies for  
15 them.

16 And why don't you both tell me what happened  
17 while I was out of the room.

18 MR. SABO: Sure, Your Honor.

19 Mr. Fimbres is making copies of the documents  
20 concerning current foreclosures that we have. He is doing  
21 that, and he will have that back to us shortly. And we  
22 appreciate Staff doing that for us.

23 And then we also have -- and Mrs. Dodson will  
24 hand these over to you -- there is a map that shows the --  
25 and it's color coded -- and it shows the permanent

1 residents and the vacant properties.

2 ALJ HARPRING: And does it reflect all of them,  
3 Mrs. Dodson?

4 MRS. DODSON: It doesn't show the permanents.  
5 That is the only thing missing from here. It shows the  
6 vacant lots, the houses for sale. And the actual houses  
7 opposed to trailers. I could not -- I would have to go  
8 home and look.

9 ALJ HARPRING: And is there a key to the color  
10 code?

11 MRS. DODSON: Down here.

12 ALJ HARPRING: On the document it actually says?  
13 And have you seen that, Mr. Sabo?

14 MR. SABO: I have, yes.

15 MRS. DODSON: And this is the list of the change  
16 of ownerships.

17 MR. SABO: And that is from -- correct me if I'm  
18 wrong -- from January '08 to currently.

19 ALJ HARPRING: Okay.

20 MR. SABO: So we have that, those two things.  
21 Mr. Fimbres is copying the current foreclosure, pending  
22 foreclosures, and then the other -- the other thing you  
23 asked for was the rentals, and discussing that, we don't  
24 think we can provide an accurate comprehensive list. We  
25 know of some, but we don't have any way of capturing what

1 all the rental parcels are.

2 ALJ HARPRING: Okay. So you are going to be able  
3 to provide me with the map that shows -- it doesn't show  
4 permanent residents; it shows vacancies?

5 MRS. DODSON: No, it shows vacant lots.

6 ALJ HARPRING: Oh, undeveloped lots?

7 MRS. DODSON: Yes.

8 ALJ HARPRING: So not homes that are empty, but  
9 undeveloped?

10 MRS. DODSON: Undeveloped, and ones for sales and  
11 their location. And then the actual stick houses, or  
12 homes, not the mobiles, that is the ones marked here.

13 ALJ HARPRING: Okay.

14 MRS. DODSON: And I can -- last count I had 53  
15 permanent people there; however, the only way I really --  
16 we have people that go away because you have snowbirds  
17 there that are part-time, and then they may just go away  
18 for a month or two.

19 So I can walk around and see who is there and  
20 know who is permanent, more or less.

21 ALJ HARPRING: Okay.

22 MRS. DODSON: I can get a pretty good close count  
23 and ask neighbors and so forth.

24 ALJ HARPRING: And can you discuss with Mr. Sabo  
25 or other individuals affiliated with the board whether

1 those are accurate?

2 I would like it to be a board exhibit. I mean,  
3 Mrs. Dodson is a member of the board. She is also a  
4 property owner, but I think it would be appropriate for  
5 this information to come from HBI as the homeowner  
6 association.

7 Do you have a feel for that, Mr. Sabo?

8 MR. SABO: Your Honor, again, my only concern is  
9 just the expense of sending out another filing. That is  
10 why we were trying to get things together that we could  
11 give you today rather than having to go through another  
12 mailing to all the parcels with the copying and mailing  
13 costs.

14 ALJ HARPRING: Okay. Then do you have a problem  
15 with working with the board and itemizing the 53 by parcel  
16 number and name?

17 MRS. DODSON: That is what I just asked him. If  
18 he wants me to do it, where do I send it? Do I send it to  
19 Mr. Sears or to his attorney or Ms. Babcock? I'd be happy  
20 to do it.

21 John Sears does not live in our project and  
22 neither does Ms. Babcock. So I would have to send it  
23 somewhere anyway for them to get it.

24 ALJ HARPRING: Can she send it to you, Mr. Sabo?

25 MR. SABO: Certainly, Your Honor.

1 ALJ HARPRING: And then if you have any  
2 objection, you will let me know?

3 MR. SABO: I'm sure we will, Your Honor. I would  
4 highly doubt that we would. I'm sure, you know, that it  
5 would be done to the best of her ability.

6 ALJ HARPRING: Okay.

7 MRS. DODSON: Can I take the easy way out and use  
8 one of your lists with the current owners and then just  
9 maybe mark it with something?

10 ALJ HARPRING: That would be fine. It doesn't  
11 have to be pretty. I just want the information. So,  
12 yeah, that would be fine.

13 MRS. DODSON: That would be fine. I could take  
14 it with me when I walk in the morning and mark parcels.

15 ALJ HARPRING: Great. So that will be a  
16 late-filed exhibit from HBI. Okay?

17 MR. SABO: Yes, Your Honor.

18 ALJ HARPRING: I lost track of where I am in  
19 this.

20 Does anyone have any questions for Mrs. Dodson?

21 MR. METLI: No, Your Honor.

22 MR. HALLAM: No, Your Honor.

23 MS. MITCHELL: No, Your Honor.

24 ALJ HARPRING: Mr. Sabo?

25 MR. SABO: No, Your Honor.

1 ALJ HARPRING: Okay. So I saw Mr. Nelson, and I  
2 see Ms. Muzic.

3 So, Mr. Nelson, you can come up first and then  
4 Ms. Muzic.

5

6

CROSS-EXAMINATION

7

8 BY MR. NELSON:

9 Q Hi.

10 A Hi.

11 Q In your testimony you stated that someone -- some  
12 person told you that her property fell out of escrow  
13 because of a proposed lien?

14 A Yes. It was the homeowner herself because I'm  
15 there and I'm visible and my phone number is listed and  
16 they can't reach anybody else.

17 In this case Ms. Babcock knew about it because  
18 she tried to e-mail our secretary and she tried to e-mail  
19 the president and she ended up with me saying, please help  
20 me because I need your CC&Rs and I need this and that.

21 Then she called me back later and said to me, I  
22 fell out of escrow; I could sue you people. I go, well,  
23 there is nothing I can do.

24 Most people don't understand the proposed lien.  
25 It can be removed, and you can clear the title for that

1 short period of time. I'm amazed how many people don't  
2 even know it's on their property.

3 Q I did not. I actually asked the question to  
4 somebody and -- never mind.

5 In that conversation did they say whether or not  
6 that you disclosed the proposal -- to the proposed buyer  
7 of the proposed underground conversion?

8 A Part of the problem was --

9 Q It was disclosed?

10 A Part of the problem was that she never remembered  
11 getting the second estimate that came from your private  
12 cost from the HOI. She felt I should have a copy of it.  
13 I said, no, I'm not the chairman of the underground  
14 committee; I do not have a copy of everybody's estimate.  
15 I have a copy of mine. I have never seen yours or anyone  
16 else's in here. Okay? It's not kept in a place where I  
17 can see it, like the shed. We keep our books, extra books  
18 in a shed.

19 So I have never seen anybody's estimate on  
20 private cost except my own. So it was something I could  
21 not give.

22 So, yes, part of the problem was the homeowner,  
23 had she been able to furnish that and the person would  
24 have been more satisfied with what the cost would mean to  
25 her.

1           Q.     I'm not sure that answered my question.

2           A.     Okay. State it again.

3           Q.     My question was, in the conversation that you had  
4 with the person that tried to sell her house, do you know  
5 whether or not she disclosed to the prospective buyer of  
6 the proposed underground conversion?

7           A.     Okay. Let me start it from the first step.

8                     She did not realize there was any proposed liens  
9 on her property.

10          Q.     I'm not talking about the lien.

11          A.     All right. She did not disclose, I guess. I  
12 don't have privy to that information. I can only tell you  
13 what the homeowner told me.

14                    I do not have the escrow -- the ability to  
15 question escrow and say what do you have. I only have --  
16 I can only tell you what the homeowner told me.

17          Q.     Okay. Do you consider yourself a low income?

18          A.     Yes, I am.

19          Q.     Have you applied for assistance?

20          A.     I sent my letter in saying I needed to know the  
21 cost before I could apply. And so I got back a letter  
22 from -- I got a letter in the mail from the CPA, and I'm  
23 on the board, and I never saw the letter before it arrived  
24 at my house.

25                    Then I start getting calls saying, what is this?



1 My biggest problem with that is that it's a CPA  
2 that I did not know. It's not the CPA that say, for  
3 instance, the HOI uses. It did not have a telephone on  
4 the call. I found him though and I called him up and I  
5 talked to him. And I said, "You were hard to track down  
6 because you do not have your phone number on your  
7 paperwork." He said that is because I didn't want to  
8 field any calls.

9 Fortunately by living in the area I knew where he  
10 was located and that he did work -- his address was from a  
11 previous CPA. He said he bought the business from them.

12 Then I proceeded -- because I don't want to turn  
13 my personal information over to somebody that I don't  
14 know. I said to him, "Are you bonded," which CPAs don't  
15 have to be bonded. However, think about it a minute. I'm  
16 turning over my income tax with all of my personal  
17 information to somebody I don't know. Did I think it was  
18 worth the chance, no.

19 Q Given what you know now, would you apply?

20 A I don't know because there has been so many  
21 flawed things about this that it really concerns me. I  
22 feel like not all the cards were laid on the table to  
23 begin with, and had they been, maybe I would consider it,  
24 yes. Okay?

25 Q If you did apply -- never mind.

1       A.     And you have to remember, most of us were better  
2     in '06 and '07 than we were in '08 and '09.

3             In those two years the State of Arizona did send  
4     me a refund check when they consider you low income. I  
5     did not pay any State income tax. So probably I might  
6     have, but I did not meet their criteria. With both of us  
7     on Social Security we were above their criteria. However,  
8     the State of Arizona sends you a \$50 check when you file  
9     your income with them even though you have not paid any in  
10    if you were a certain criteria with them.

11       Q.     Out of respect for you, I won't ask you any more  
12    questions.

13             MR. NELSON: Thank you, Your Honor.

14             ALJ HARPRING: Okay. Ms. Joy Muzic.

15

16                             CROSS-EXAMINATION

17

18   BY MS. JOY MUZIC:

19       Q.     Good afternoon, Billie. I do know that you are  
20    the treasurer of our homeowner association, so my question  
21    is related to that because I brought up the issue of our  
22    \$9,000 item issue.

23             Do you recall that I asked -- I wrote a letter  
24    and asked the board to review the checks, the records from  
25    2005, 2006 through 2008?

1           A.     Yes, I do.

2           Q.     Do you know that I spoke to the board and shared  
3 the information that I found by check number to the  
4 different things? When I say things, people or postage or  
5 those types of things to the board.

6           A.     I believe you did not share your list; you shared  
7 the dollar amount.

8           Q.     Did I state to the board that I did have those,  
9 the reference to the check numbers and different issues?

10          A.     Yes.

11          Q.     I have noted that in 2005/2006 we paid \$18,000 to  
12 an Alex Mario.

13                   Is that a true statement? I'm asking this to you  
14 because I talked about that \$9,000 item list issue.

15          A.     I only know it's true because it was in the  
16 checkbook. I was not treasurer at the present time, at  
17 that time.

18          Q.     So with that, did I report to the board that a  
19 total of -- we had spent in 2007/2008 and to that fiscal  
20 year a total of \$36,383.11.

21                   Do you remember that number?

22          A.     I don't remember the dollar amount, but it sounds  
23 correct.

24          Q.     Thank you.

25                   In 2008 and 2009, I have been to the board

1 meetings. To date I have found that you have paid out for  
2 the underground conversion over \$8,000.

3 Is that a correct statement?

4 A. What year are you speaking of?

5 Q. 2008, '09.

6 A. Correct.

7 Q. Thank you.

8 So we're still evolving and going over this  
9 \$9,000 per year and spending this type of money; is that  
10 correct?

11 A. Yes, but it is voted on by the board.

12 Q. Thank you.

13 One more question, Billie. We were going -- I  
14 was going through the Staff petitions yesterday.

15 Was your name on that?

16 A. Yes, it was.

17 Q. I was asked by the Judge today if the persons  
18 that I knew signed that, was that the intent of signing  
19 it, to be presented to this Commission or to receive the  
20 \$28,000 back from APS.

21 A. Well, I feel rather stupid because I signed it; I  
22 obviously didn't read it very well. Because I have never  
23 been for this.

24 However, I think the \$28,000 you are talking  
25 about is when the County was going to do the project and I

1 believe we paid APS the \$28,000 to draw up the plans. And  
2 we were told at the annual meeting that to get our \$28,000  
3 back, we would sign this petition and then it would go  
4 forward. And then when APS got involved, they would, so  
5 to speak, buy the plans back, which they did refund the  
6 \$28,000.

7           However, like I said, it is entirely my fault  
8 because I did not read it and I did sign it.

9           Q.   My question to you: Was that your intent to put  
10 it to this Commission or was it just to get \$28,000 back  
11 to the homeowners?

12          A.   I thought it was to get our \$28,000 back to our  
13 board.

14          Q.   Thank you. No final questions, Billie.

15          A.   Thank you.

16               ALJ HARPRING: Any additional questions for  
17 Mrs. Dodson?

18               (No response.)

19               ALJ HARPRING: Okay. Thank you.

20               The documents that are going to be provided to  
21 me, are those going to be provided right now?

22               MR. SABO: Yeah, let's do that right now.

23               ALJ HARPRING: Did you want to do that through  
24 Mrs. Dodson.

25               MR. SABO: Sure, Your Honor.

1 ALJ HARPRING: Could you have a seat again,  
2 Mrs. Dodson.

3

4 CROSS-EXAMINATION

5

6 BY MR. SABO:

7 Q Mrs. Dodson, could you -- do you have that map  
8 that we were discussing with you?

9 A Yes, I have a map here that shows the vacant  
10 lots, the homes, and the for sales.

11 Q Could you tell us -- there is a color code.  
12 Could you tell us each color and what the color signifies?

13 A Okay. My yellow is for vacant lots. The pink is  
14 for houses and not mobiles. The blue is for sale signs.

15 Q Could you hand the map over to the ALJ?  
16 Thank you very much.

17 ALJ HARPRING: Is this -- this is going to be  
18 exhibit H-7?

19 MR. SABO: Sounds good to us.

20 ALJ HARPRING: Have the other parties had an  
21 opportunity to at least take a glance at this?

22 MR. METLI: No, Your Honor.

23 ALJ HARPRING: Would you like such an opportunity  
24 now, Mr. Metli?

25 MR. METLI: I'm assuming that Mr. Sabo will

1 present me copies of them.

2 MR. SABO: We looked into getting copies -- that  
3 is actually our only copy.

4 ALJ HARPRING: I suspect that the color coding is  
5 an issue.

6 MR. METLI: Yeah, I don't think the color coding  
7 would be an issue for us. We would just want a copy of  
8 the exhibit for our records.

9 ALJ HARPRING: No. What I meant was, first there  
10 is the size issue, because it would need to be reduced  
11 probably. But secondly, I don't think we have a color  
12 copy -- or do you?

13 MS. MITCHELL: No, we don't, but I think -- is  
14 that 11 by 17? I may have that paper in legal. I know  
15 that we have the ability to copy that big. I just don't  
16 know if we have the paper.

17 ALJ HARPRING: Why don't we --

18 MR. METLI: Well, I have no objection to it.

19 ALJ HARPRING: Even if you don't get to look at  
20 it?

21 MR. METLI: I will look at it right now that you  
22 have said that.

23 ALJ HARPRING: Okay. And if you would be so  
24 kind, Mr. Metli, after you look at it give it to  
25 Mr. Hallam and then also give it to Ms. Mitchell, I would

1 appreciate that very much.

2 MR. METLI: Yes.

3 Q BY MR. SABO: And, Mrs. Dodson, while he is doing  
4 that, do you also have that list of properties that  
5 changed ownership since January of 2009 -- or 2008? Could  
6 you hand that to the Judge?

7 ALJ HARPRING: And this must be your original.  
8 So there are two copies of this that have the pencil  
9 copied as well?

10 THE WITNESS: I don't have one with me. I just  
11 did that to make it easier.

12 Do you want me to erase it?

13 ALJ HARPRING: This one wasn't copied?

14 MR. SABO: That's correct, Your Honor.

15 THE WITNESS: But I don't need a copy. I have it  
16 on my computer.

17 ALJ HARPRING: But there are no copies of this  
18 document; I'm holding the only one?

19 MR. SABO: That's correct. Yes.

20 ALJ HARPRING: Yeah, we will want to get this  
21 copied too.

22 MR. SABO: Okay.

23 Mr. Fimbres is going to take this one.

24 I'm sorry. Go ahead, Mr. Sabo.

25 Q BY MR. SABO: Thank you, Your Honor.



1           And, Mrs. Dodson, you should also have the copies  
2 of the recent foreclosure notices, and could you give one  
3 set of those copies over to the Judge?

4           A.     Just one of them?

5           ALJ HARPRING:   Okay.   Thank you.

6           Q.     BY MR. SABO:   That was all of them?

7           A.     I gave her one.

8                 Do you want all three of them?

9           ALJ HARPRING:   There is one set of copies?

10          MR. SABO:   There was an original and then we  
11 copied.

12          THE WITNESS:   So these are all three of them.

13          MR. SABO:   So now there is an original and one  
14 copy.

15          ALJ HARPRING:   And Mrs. Dodson has the original?

16          THE WITNESS:   Yes.

17          ALJ HARPRING:   And you have nothing.

18          MR. METLI:   Your Honor, just as a suggestion, I  
19 mean, possibly -- we would certainly stipulate to having  
20 it filed as a late-filed exhibit and stipulate that we  
21 don't need copies of it as long as the exhibits are posted  
22 on the web site.   I don't know what the other parties feel  
23 about that.   APS would stipulate to not having them to  
24 have to mail them out.

25          ALJ HARPRING:   Why don't I ask other parties.

1 MR. METLI: Great.

2 ALJ HARPRING: What do you think, Mr. Hallam?

3 MR. HALLAM: I think that is a wonderful idea,  
4 Judge.

5 ALJ HARPRING: And, Ms. Mitchell?

6 MS. MITCHELL: Given our short resources and  
7 limited resources, I would agree.

8 ALJ HARPRING: All right. And do any of the  
9 property owner parties have a problem if these are filed  
10 as late-filed exhibits and they are not mailed to you, but  
11 they will be posted on the web site in the same manner  
12 that other documents are posted on the E-Docket function  
13 to the web site?

14 (No response.)

15 ALJ HARPRING: I don't see any objection. I  
16 think that would be great. Thank you.

17 Or actually, I guess you will not get the  
18 original.

19 Are you just going to reproduce these and send  
20 them to me?

21 MR. SABO: Your Honor, I guess if I understood  
22 Mr. Metli's proposal -- and it sounds good -- is what we  
23 would do is we would send it in to docket control, and  
24 then they would, you know, scan it in as they normally do.  
25 We would have some cover page that says late-filed

1 exhibits.

2 ALJ HARPRING: Okay. Very good. All right.

3 That will work.

4 Then do you have one more to go over with

5 Mrs. Dodson?

6 MR. SABO: Not with Mrs. Dodson, but I do have

7 one more.

8 ALJ HARPRING: Mrs. Dodson, you may step down.

9 Thank you very much.

10 MR. SABO: And, Your Honor, you had asked for a

11 list of the properties that have the overhangs.

12 ALJ HARPRING: Yes.

13 MR. SABO: And we provided that to APS in a data

14 request. We do have copies of that that we can hand out

15 as an exhibit.

16 ALJ HARPRING: And do you want that to be -- then

17 do you want that to be Exhibit H-7 and actually admitted

18 today?

19 MR. SABO: That would be great.

20 ALJ HARPRING: Are the parties willing to

21 stipulate to the admissibility of this information?

22 MR. METLI: Yes, Your Honor.

23 ALJ HARPRING: Mr. Hallam?

24 MR. HALLAM: I'm sorry. Judge, I was just

25 looking at it for the first time.

1 ALJ HARPRING: Do you need a moment?

2 MR. HALLAM: Based on what I have seen, I have no  
3 objection.

4 ALJ HARPRING: Okay. Staff?

5 MS. MITCHELL: We have no objection.

6 ALJ HARPRING: And do any of the property owner  
7 parties have an objection? It's a list of approximately  
8 36 properties that have utility lines hanging over their  
9 backyard and/or patios.

10 Any objection?

11 (No response.)

12 ALJ HARPRING: Okay. Then Exhibit H-7 is  
13 admitted.

14 MR. SABO: Thank you, Your Honor.

15 (Exhibit 7 was admitted into evidence.)

16 ALJ HARPRING: Okay. Johnny Dodson.

17 MR. DODSON: I agree with what my wife said.

18 ALJ HARPRING: I'm sorry but I will have to have  
19 you come up and say that.

20

21 JOHNNY DODSON,

22 called as a witness on his own behalf, having been first  
23 duly sworn by the certified court reporter, testified as  
24 follows:

25

1

## DIRECT TESTIMONY

2

3

4 said.

5

6 record?

7

8 Hillcrest Bay.

9

10 questions for Mr. Dodson?

11

MR. METLI: No, Your Honor.

12

MR. HALLAM: No, Your Honor.

13

MS. MITCHELL: No, Your Honor.

14

15 questions for Mr. Dodson?

16

(No response.)

17

ALJ HARPRING: Okay. Thank you, Mr. Dodson.

18

Next is Wayne Dunham.

19

20

WAYNE DUNHAM,

21 called as a witness on his own behalf, having been first

22 duly sworn by the certified court reporter, testified as

23 follows:

24

25

## 1 DIRECT TESTIMONY

2

3 MR. DUNHAM: I'm Wayne Dunham. I have a property  
4 at 805 Bay View Drive, lot 16 and the lot 17 next to it.

5 I built that house in '74. We put our electrical  
6 underneath the ground. It was direct burial at that time.  
7 And both of Muzic families and myself come off the same  
8 pole. We all put them underground.

9 I think that Hillcrest Bay is a fantastic place.  
10 I have been coming to Lake Havasu since '56, and my  
11 children have all come here, my grandchildren, and two of  
12 my great grandchildren.

13 I love the place just the way it is. I see no  
14 excuse for throwing away money putting the power  
15 underground. If it didn't get done in the beginning, that  
16 was unfortunate for all of us, but that is my feeling.

17 I am retired. I have no income except Social  
18 Security. I have sold what assets I had. I am down to  
19 this house and the house I live in, and I can't assume a  
20 debt like that and pay for it. And I'm certainly not  
21 going to leave it to my children or grandchildren to do.

22 So that is all I have to say.

23 ALJ HARPRING: Does anyone have any questions for  
24 Mr. Dunham?

25 MR. METLI: No, Your Honor.

1 MR. HALLAM: No, Your Honor.

2 MS. MITCHELL: No, Your Honor.

3 MR. SABO: No, Your Honor.

4 ALJ HARPRING: Any other property owners have any  
5 question for Mr. Dunham?

6 (No response.)

7 ALJ HARPRING: Thank you, Mr. Dunham.

8 Steve Benton.

9

10 STEVE BENTON,

11 called as a witness on his own behalf, having been first  
12 duly sworn by the certified court reporter, testified as  
13 follows:

14

15 DIRECT TESTIMONY

16

17 MR. BENTON: My name is Steve Benton. I live at  
18 2948 Noble View Drive in Hillcrest Bay.

19 I am opposed of the underground utilities  
20 project, and I would like to share the following testimony  
21 with you.

22 I think from the very beginning and even maybe  
23 today the costs associated with this project has been very  
24 confusing. I believe that then Commissioner Mayes, I  
25 believe now Chairman Mayes understood that, and in her

1 procedural orders that were passed down in the last  
2 meeting she asked that every homeowner be supplied with  
3 their amended total cost, public and private. There were  
4 about five things in that procedural order, and that was  
5 either first or second on the list. Further down in the  
6 list was to initiate a revised petition.

7 I believe it was her intent and her wishes that  
8 let's let every homeowner know exactly what this is going  
9 to cost them and then let's have another revised petition.  
10 That is not what happened. And that was my questioning to  
11 Mr. Sears yesterday, was the timing of those events. And  
12 I definitely do not think that her wishes were carried  
13 out.

14 I think that the project has some flaws from the  
15 very beginning when you look at the cost per homeowner.  
16 Assuming that we all end up with the same product, the  
17 same end result, that you would have a low of \$4500 on one  
18 end and a high of \$30,000 on the other end, how in the  
19 world is there such a difference in what homeowner would  
20 pay to what another homeowner would pay?

21 Now, I understand that there has been another bid  
22 and maybe these numbers are somewhat different, but there  
23 is still huge differences in what each of us would pay if  
24 this project were to go through.

25 I also feel very sorry for anyone that is trying



1 to sell a home in Hillcrest Bay right now. We all know  
2 how bad the market is, and that the terrible thing as it  
3 is. But imagine trying to sell a home having a potential  
4 buyer come to your home, be very interested in your home,  
5 and then I have to tell them, oh, by the way, I forgot to  
6 tell you about this \$20,000 you will have to pay after you  
7 purchase my home. What do you think that would do to the  
8 sale of that home? I think there is a dark cloud hanging  
9 over everybody right now that is trying to sell their home  
10 right now.

11           Concerning the pictures that we saw yesterday,  
12 those pictures didn't look good. They showed you a lot of  
13 wires and a lot of telephone poles. I don't have them  
14 with me, but I could have brought you probably 20 pictures  
15 that would have showed you no telephone poles or no  
16 telephone wires and want you to know that those pictures  
17 are not the whole story.

18           Also, I want to share with you my experience in  
19 trying to refinance my home. I went to my credit union  
20 and tried to refinance my home, filled out all the  
21 paperwork and thought everything was fine. A few days  
22 later I got a call from the manager of the credit union  
23 telling me my loan had been denied because there were  
24 liens on my property.

25           I said, wonderful, now this thing is going to

1 cost me more money because I was in process of saving  
2 about \$200 a month on my house payment because interest  
3 rates had dropped to like 4.7 or 5 percent and I wanted to  
4 jump on the bandwagon and save money as I could. I was  
5 devastated when I found out that my loan was denied  
6 because of these leans.

7           However, I was fortunate, very fortunate because  
8 in my being so disgusted with this whole thing I talked  
9 about this to Billie Dodson she told me, "Did you know  
10 there is a way you could get around this?"

11           And I said, "No, I didn't know that."

12           Well, I want to thank Billie and I also want to  
13 thank D.L. Wilson because they did find a way for me to  
14 get around this. And I did end up getting the loan. But  
15 if I had never made that statement to Billie Dodson, I  
16 would have sat there with my loan in the trash and it  
17 would have been a done deal.

18           I don't know if anybody else has experienced this  
19 problem, but these liens on our property are hurting not  
20 only home sales, but in my position almost a loan at a  
21 great rate.

22           As far as values of the homes, I had my house  
23 appraised about three years ago. It appraised for  
24 \$500,000. Just three months ago, concerning this loan I'm  
25 talking to you about now, my house was down to \$300,000.

1 So I went from \$500,000 to \$300,000. If you want to know,  
2 I actually have papers I could show you that, if you want  
3 to know what has happened to the home values in the area.

4 Concerning low income, it was on this very bench  
5 that -- I believe it was Mr. Pierce, one of the  
6 chairman -- excuse me -- one of the commissioners said  
7 something about a fact that you could make \$100,000 a year  
8 but still be in serious financial trouble. Whether it be  
9 bad choices on your part, bad luck, we all have our own  
10 individual situations, and it really boils down to what is  
11 your net income.

12 So when they are asking us, you know, what your  
13 financial status is, do they want to know what your net  
14 income is or what your gross income is? You know, it  
15 could be significantly different for a lot of people.

16 I'm going to share something with you that is  
17 going to be embarrassing. I'm a PGA professional. I'm a  
18 golf professional, and I manage a golf course. I'm not  
19 like Tiger Woods. You don't see me on TV. But I have a  
20 job that a lot of people think that I probably make a lot  
21 of money.

22 My take-home pay is \$1500 a month. That is what  
23 I see in my paycheck every two weeks, about \$760. I have  
24 to raise, you know, my family and pay my bills on that  
25 amount of money. Yes, as a golf professional about

1 six months out of the year I give lessons and I have  
2 somewhat of an extra income for six months out of the year  
3 when the winter visitors are here. There is another  
4 six months when my lessons are about zero and I'm truly  
5 living on the \$1500 a month. So I think each of us has  
6 our own situation, and it may not be entirely based on  
7 what our gross income is but on what our net income is.

8           Also, a lot of us, and I know in my position,  
9 because of this recession, I have family members that were  
10 working and are not working. One of my children is not  
11 working and two of my wife's children are not working  
12 because of things that have happened with this recession.  
13 We now find ourselves, not only trying to pay our own  
14 bills, but trying to help our children out with their  
15 electric bill, with their water bill, trying to help them  
16 put food on the table because they are out of work because  
17 of what is going on out there.

18           So each of us has our own situation, and as  
19 embarrassing as it is, I wanted to share this with you  
20 because there are a lot of people in financial hardship  
21 out there right now.

22           I think it is very selfish and very unfair for  
23 our neighbors to force us, not ask us, but to force us to  
24 pay thousands and thousands of dollars that we can't  
25 afford just so they can enjoy a better view.

1 That is all I have.

2 ALJ HARPRING: Questions for Mr. Benton?

3 MR. METLI: No questions, Your Honor.

4 MR. HALLAM: No, Your Honor.

5 MS. MITCHELL: No, Your Honor.

6 MR. SABO: No, Your Honor.

7 ALJ HARPRING: Do any property owner parties have  
8 questions for Mr. Benton?

9 (No response.)

10 ALJ HARPRING: Okay. Thank you.

11 Harlayne Bond.

12

13 HARLAYNE BOND,

14 called as a witness on her own behalf, having been first  
15 duly sworn by the certified court reporter, testified as  
16 follows:

17

18 DIRECT TESTIMONY

19

20 MRS. BOND: My name is Harlayne Bond, and my  
21 husband and I own lot 133 in Hillcrest Bay.

22 First I would like to say I did some homework  
23 last night on the Arizona Housing Authority. And although  
24 it does not say Hillcrest Bay, we can pull up La Paz,  
25 Maricopa, if we want, in the state.

1           From the year 1990 to 2000 we were all about  
2 52.2, 52.3 percent increase in home values for that ten  
3 years. From 2000 to 2006 everything went up about 95  
4 percent, which we all know. 2006, boom, everybody made  
5 money.

6           From 2006 to 2008 it actually rose -- I'm  
7 sorry -- from 2006 to 2007 it leveled after that 95, and  
8 the state went to about 9.2 for that one year. But La Paz  
9 was 13.3. More vacation homes. There was a lot of money  
10 going around between 2006 and 2007. We had a lot of homes  
11 built in Hillcrest Bay, spec homes. But they were homes  
12 built in those years from 2006 and 2007.

13           However, from 2007 to 2008 it dropped  
14 102 percent. These are their numbers, via Steve's home.

15           So when we first started this program, everybody  
16 was on a ride; boy, we can make money and our houses will  
17 look great. It is no longer that.

18           So the recession hit the housing market, hit  
19 everyone's pocket. We are not sitting here today with the  
20 same information that we did two years ago.

21           When the CD came out with the signatures, my lot,  
22 133, is not on there. My husband and I looked many times,  
23 and it's not. So we did not want to -- we sent or  
24 submitted to speak here, but I don't want to change my  
25 vote; I just want mine to count. We are a no; we are

1 opposed.

2 My sister and brother-in-law own lot 126 and 127  
3 and have since the '80s; although they had to quitclaim it  
4 to the niece because my sister is terminally ill. I have  
5 four terminally ill sisters, and I also had to quit my job  
6 to take care of all of them.

7 When I spoke to them when I saw the CD that said  
8 yes, they said, no, we don't have the money for that; my  
9 niece, it's their only child. I said, well, it shows you  
10 a yes and it has this blackout mark, Leah Wagner that you  
11 spoke to. She says, "Well, we don't want it."

12 I said, "Well, the date is over. You can't send  
13 anything in anymore because they said that."

14 So on their behalf -- they also have very -- two  
15 very large lots as far as square footage -- they are a no  
16 and are disparately opposed and will do documentation. We  
17 just thought because it was afterward that it would be a  
18 moot point.

19 The 20-plus votes that were changed have many  
20 reasons. And I think Staff spoke to the fact that she was  
21 concerned about people being informed. This morning it  
22 was about, were they informed of the total price prior,  
23 the changes?

24 Well, I think informed is a good word because  
25 there was a lot of misinformation and misguided

1 information given to people two years ago when they were  
2 voting. They were told you will have poles in your  
3 driveway if you don't vote for this because they will put  
4 them all in here; you will have no access to maybe get  
5 your boat out. They were told, all your neighbors want it  
6 and you are the only one that isn't doing it and that is  
7 not fair to all your neighbors. They were just given all  
8 sorts of baloney and people fell for it, which is funny  
9 now, because if they were told their neighbor now in fact  
10 could put their lines underground without them, maybe they  
11 would change their vote.

12           That was information they weren't told. They  
13 were told, if you don't do it, your neighbors will be  
14 upset, and you will be the only one. Well, this is no  
15 longer true. Their neighbors can go underground with  
16 their lines if they choose to. I may not choose to. They  
17 do not know that; that was misinformation.

18           I believe a lot of it was very deceptive and  
19 certainly untrue. And I won't use the word lie, but, boy,  
20 was it stretched.

21           I also would like to say, if this is passed,  
22 those of us who oppose it, we don't get an option. If  
23 it's passed, you are in; you have to pay. But the funny  
24 thing is we find out today, if it doesn't pass, the people  
25 who wanted underground, they have that option. They can



1 still go underground. So they get the options that we  
2 don't.

3 So if it doesn't pass, they still have their  
4 option to beautify their home, which, by the way, pretty  
5 much are an 80 percent, give-or-take number, of vacation  
6 homes, these are why they want views or whatever, so they  
7 have that option to put that under.

8 I would also like to just share something that  
9 upset me yesterday. Sorry. The word ghetto was used, and  
10 it was used prior to here. It was used out on the  
11 property. Trailer trash we will look like. We are going  
12 to look like a ghetto. These were all used out there on  
13 the streets.

14 The word ghetto, via Webster, which I think  
15 Mr. Sears likes to use Webster, it's defined as ghetto/  
16 slum: A section of a city where minorities or ethnic  
17 groups live in poverty/low income."

18 I wish Mr. Garcia was still here because the  
19 50-some people that live there that don't have a second  
20 home to run to and be beautiful, this is their place that  
21 they live all year long, do not live in a ghetto and they  
22 don't live in a slum. And he owes them an apology. And  
23 I'm sorry, but that was wrong.

24 I don't think anybody sitting here would tell  
25 these people that they live in a ghetto or a slum, but

1 that is what was said over and over, and I think it's time  
2 to stop.

3 And I believe two years later, please,  
4 commissioners, listen to the fact that these people still  
5 have an option for what they want for their pretty views,  
6 their property. The properties of Hillcrest Bay --

7 By the way, I did call two of the local realtors  
8 and asked all of their people, when people don't buy in  
9 Hillcrest Bay, what do they say? I didn't use poles or  
10 anything. First it was price. Second was the aesthetics  
11 that did not include poles; the broken down trailers,  
12 broken down cars, junk in the front yards, the houses they  
13 were going to buy were next door to these.

14 They never mentioned poles. There are beautiful,  
15 beautiful communities with poles across this country.  
16 That is not our issue. It may be the issue when you have  
17 a line in your backyard. That is not my issue. I don't  
18 have those lines. I do have a house in front of me I'd  
19 like to have lower, but other than that --

20 I would just like the Commission to know that we  
21 are two years past and it is a different country.  
22 Two years ago I could have afforded it. I can't. It is  
23 paid off, so for someone to say, it is your second home,  
24 you are not low income or that you could afford something,  
25 they don't have that right. I don't have the right to

1 tell anybody what they do or how they live or where their  
2 money comes from. I don't have it. I couldn't sell. I  
3 probably couldn't sell mine if I gave it away, but I would  
4 like to leave that to my grandchildren as well, although  
5 they took her and moved her to Virginia.

6           Anyway, it is a different world, and I would hope  
7 that the Commissioners would take that into effect. The  
8 fact that all of this petitioning and all of this, it goes  
9 down to, we don't have 60 percent. We probably never did.  
10 And if the ones were signed this were told all this  
11 misinformation, what would they do today with the real  
12 information, not my opinion, no someone's feeling, but  
13 real true information? Their neighbors can go underground  
14 if they want. All of these things they need to be told.  
15 I think that is relevant.

16           And I thank you for your time.

17           ALJ HARPRING: Questions?

18           MR. METLI: No, Your Honor.

19           MR. HALLAM: No, Judge.

20           MS. MITCHELL: No, Your Honor.

21           MR. SABO: No, Your Honor.

22           ALJ HARPRING: Do any property owner parties have  
23 questions for Mrs. Bond?

24           (No response.)

25           ALJ HARPRING: Okay. Thank you, Mrs. Bond.

1           The next name is Judy Wilson-Kawagoya, but I  
2 don't see her in the room.

3           Has she left?

4           Then she is no longer present.

5           And, Mr. William Bond is the last.

6           Is he present?

7           No. Okay. Then we have gone through all the  
8 property owner parties.

9           Let's talk about late-filed exhibits.

10          APS, I have asked you for an update on late-filed  
11 Exhibit A-13 for 2008 and 2009 to date.

12          And I have also asked you to provide updated  
13 safety CAIDI and SAIDI information for the same time  
14 period.

15          Would you like to be afforded an opportunity that  
16 HBI has asked for to have this filed in docket control and  
17 not send it to all property owners?

18          MR. METLI: Yes, Your Honor, that would be good.

19          I have a question, though.

20          ALJ HARPRING: Okay.

21          MR. METLI: With respect to the updating the  
22 SAIDI, we are talking about the same, just Hillcrest Bay;  
23 correct?

24          ALJ HARPRING: Yes, just Hillcrest Bay, that is  
25 what I'm interested in. You provided the data previously.

1 MR. METLI: Previous, same type.

2 ALJ HARPRING: Just an update.

3 MR. METLI: Okay.

4 ALJ HARPRING: Do any of the parties have an  
5 objection to allowing APS to file that information in  
6 docket control and not mail it to you all?

7 (No response.)

8 ALJ HARPRING: Okay. I don't see any objection,  
9 so you can do that.

10 MR. METLI: Thank you, Your Honor.

11 ALJ HARPRING: Hillcrest Bay, Inc., I have asked  
12 you for several late-filed exhibits. Some of them I have  
13 today.

14 The map, do you have that, Ms. Mitchell?

15 MR. SABO: It's made its way back to me.

16 ALJ HARPRING: Could I take that one or do you  
17 need this for copying purposes?

18 MR. SABO: This is the only one, so if -- so we  
19 probably should hang onto it.

20 ALJ HARPRING: Well, then, I'm going to ask you  
21 to provide me with a copy of that that has the color  
22 coding, because without it it will mean nothing to me.

23 MR. SABO: Yes, Your Honor. We will do a color  
24 copy of this one.

25 ALJ HARPRING: Okay. Very good. So you will be

1 providing me with the map.

2           You are going to be providing me with the  
3 document regarding change of ownership -- or rather you  
4 will be filing it as a late-filed exhibit. I actually  
5 already have it, and I will give you one.

6           MR. SABO: Great.

7           ALJ HARPRING: You will be providing as a  
8 late-filed exhibit these copies regarding foreclosure as  
9 well.

10           And then finally you are going to be providing a  
11 list of the permanent residences showing parcel number and  
12 name that you will work out with Mrs. Dodson.

13           MR. SABO: Yes, Your Honor.

14           ALJ HARPRING: And, oh, I'm sorry. I forgot the  
15 Recorder notices for the period from July 1, 2008 to the  
16 present.

17           MR. SABO: Your Honor, Mrs. Dodson did show those  
18 to me, and it didn't look like they would be helpful.

19           ALJ HARPRING: Did they not include information  
20 beyond what you are already providing me through those  
21 another documents?

22           MR. SABO: Mrs. Dodson can go over what it shows,  
23 but basically it's every recording of any document in the  
24 county every two weeks. So it's not limited to Hillcrest  
25 Bay. So it would be fairly voluminous information, and

1 you would have to really pick out the Hillcrest  
2 Bay-related ones.

3 ALJ HARPRING: Okay.

4 MR. SABO: So it didn't seem like that would be a  
5 helpful exhibit.

6 ALJ HARPRING: Then you will not be required to  
7 provide it. I don't want you to provide anything  
8 voluminous that is not going to provide additional  
9 information.

10 And those documents, as I stated, are going to be  
11 filed with docket control but they will not be provided by  
12 mail to the parties -- to the property owners. And  
13 earlier when I asked, no one had an objection to that.

14 So do I see any objection now?

15 (No response.)

16 ALJ HARPRING: No, okay.

17 I am going to require you to file briefs. I'm  
18 not going to require the property owner parties to do it.  
19 You can provide me input through a brief if you desire;  
20 however, my intention is to require counsel for the  
21 parties who are represented to provide the briefs.

22 And these are the issues that I want you to  
23 address:

24 What is the standard for approval and has it been  
25 met? And I want a detailed analysis of how you reach your

1 conclusion.

2 I want you to specifically address how the  
3 Commission should interpret the language in A.R.S.  
4 §40-346A requiring a finding that owners of no more than  
5 40 percent of the real property or no more than 40 percent  
6 of the owners of real property have not objected.

7 And I'm fully aware that APS and Verizon and  
8 Staff have all done that previously; however, HBI has not.  
9 There is a double negative in there, and I want you to  
10 provide an interpretation of that, Mr. Sabo. And you may  
11 want to look at the briefs filed previously by the other  
12 parties to see how they analyze the issue.

13 I also want you to provide an analysis of how the  
14 Commission should analyze the validity of the withdrawals  
15 of signature and the objections received in this matter.  
16 I'm not talking just about the dates. I'm also talking  
17 about what Mr. Sabo raised in HBI's prehearing brief  
18 regarding A.R.S. §40-345-1. I also want you all to take a  
19 look at Decision No. 67437 in Docket No. 04-0276 because  
20 there were withdrawals and objections filed in that  
21 docket, and I want you to include an analysis of how the  
22 Commission analyzes those withdrawals and objections in  
23 light of 40-345-1.

24 I expect you all to address the argument  
25 presented by APS that the new hearing provided the



1 property owners a renewed opportunity to make timely  
2 withdrawals of signature and objections. And you have all  
3 done that previously to an extent, but I want it to be  
4 included in the closing briefs.

5 I also want you to discuss the APS issue of  
6 dismissal, whether dismissal is appropriate because of the  
7 level of support at the current time.

8 Finally, I want you to brief the legal issue,  
9 whether the service costs can be attributed on a square  
10 footage basis as Tades did in its revised cost estimates.  
11 I want you to tell me whether that is consistent with the  
12 statutory authority or whether that would be a violation  
13 of the statutory authority.

14 And so that is it for the briefs.

15 But, Ms. Mitchell, earlier today you had  
16 questioned the increased cost for the 28 parcels, and I  
17 want to know whether you think any further exploration of  
18 that issue needs to be done.

19 MS. MITCHELL: Your Honor, as Mr. Sabo stated,  
20 the information was included in the filings that HBI,  
21 Inc., presented in the -- I believe it was either in the  
22 prehearing brief or it was in the updated information that  
23 I think was filed in May.

24 I think Staff still has a concern if the  
25 information provided was adequate enough to provide people

1 with enough information to make an informed decision.  
2 What I mean by that, you know, there has been a lot of  
3 discussion here in the last two days about what people  
4 understood and what they did not understand about this  
5 process. And I know it could be daunting for people who  
6 don't have the experience that we have in the legal arena  
7 to understand that, you know, within those attachments,  
8 was the information that they needed.

9           There was one gentleman -- and I don't remember  
10 his name, but he is sitting back there -- that said he  
11 never got a cost estimate, but it appeared to me that he  
12 thought that there was going to be some separate piece of  
13 paper that says, Dear Mr. X, my name is Tades  
14 Construction, and here is your cost estimate for your  
15 property. And I don't think that that was done even  
16 though the information was out there and available. It's  
17 a dilemma of how much responsibility do you put on an  
18 individual to read all of the filings that they received  
19 through the course of this process.

20           So that is a long way of saying, I think that the  
21 information was there. I believe that Staff could take  
22 the position that the information was provided; it's in  
23 the docket; everybody was mailed a copy; and it was  
24 incumbent upon them to read it and assess it. And  
25 perhaps, you know, in your weighing of the evidence in

1 this case that may be something that you would just give  
2 the proper weight to as evidence.

3 ALJ HARPRING: It doesn't sound like you think  
4 any additional information needs to be submitted on that.

5 MS. MITCHELL: Okay.

6 ALJ HARPRING: Is that correct?

7 MS. MITCHELL: Yes.

8 ALJ HARPRING: Okay. All right.

9 Do the parties want to have an opportunity to  
10 provide closing statements?

11 MR. METLI: No, Your Honor.

12 MR. HALLAM: We will waive closing, Your Honor.

13 ALJ HARPRING: Ms. Mitchell?

14 MS. MITCHELL: We will waive for briefs.

15 MR. SABO: In the light of we are filing briefs,  
16 I don't see any need for it.

17 ALJ HARPRING: Okay. Let's talk about when those  
18 briefs are going to be due.

19 I was thinking three weeks. August 12th actually  
20 is the date that I was looking at. I think that is  
21 three weeks.

22 MS. MITCHELL: Your Honor, I have a problem.  
23 Well, I'm the lead attorney for the UNS Gas case, which  
24 starts August 10th. That is scheduled to be -- and I  
25 believe Mr. Sabo also, his law firm, they are also counsel

1 for UNS Gas. That does pose a hardship to me. I'm the  
2 sole attorney for this matter.

3 ALJ HARPRING: How long is that case scheduled to  
4 go?

5 MS. MITCHELL: You know, it's scheduled --  
6 actually it's really interesting, because I believe it's  
7 scheduled for two weeks, although I know the APS hearing  
8 starts on the 19th, which kind of butts up in the middle  
9 of the scheduled time period for the UNS Gas case.

10 You know, I'm always optimistic that the cases  
11 will never take as long as they have been set for, and in  
12 light of -- I'm sure with the heightened interest in the  
13 APS settlement matter, I'm sure that everyone hopes it  
14 will be -- that UNS will conclude before the beginning of  
15 that case.

16 So I would say that after the 19th would be a  
17 better day for Staff to provide a briefing in this matter.

18 ALJ HARPRING: You think the 19th would be enough  
19 time?

20 MS. MITCHELL: Well, no. I think I said after  
21 the 19th.

22 ALJ HARPRING: After.

23 MS. MITCHELL: I need a couple days' recovery  
24 time, and I am sure Mr. Sabo may also; although, they may  
25 have more resources down at Roshka DeWulf than we have at

1 Commission Legal.

2 ALJ HARPRING: How about August 26th?

3 MS. MITCHELL: Yes, that works.

4 ALJ HARPRING: Does that work with you,  
5 Mr. Metli?

6 MR. METLI: Yes, Your Honor.

7 ALJ HARPRING: Does that work with you,  
8 Mr. Hallam?

9 MR. HALLAM: Yes, Your Honor.

10 ALJ HARPRING: And, Mr. Sabo?

11 MR. SABO: Yes, Your Honor.

12 ALJ HARPRING: And I also want reply briefs. I  
13 want you to respond to each other. So I am going to give  
14 you two weeks to do those. Okay?

15 Does that work for everybody?

16 MR. METLI: Yes, Your Honor.

17 MR. HALLAM: Yes.

18 MS. MITCHELL: Yes, Your Honor.

19 ALJ HARPRING: So August 26th for the initial  
20 briefs and two weeks later, which is in September, for the  
21 reply briefs.

22 And the late-filed exhibits, Mr. Sabo, can you  
23 get those to me within a week or do you want 10 days?

24 MR. SABO: She is nodding, so, yes.

25 ALJ HARPRING: A week.

1 Is that also feasible for APS?

2 MR. METLI: One second, Your Honor.

3 ALJ HARPRING: Okay.

4 MR. METLI: 10 days will work, Your Honor.

5 ALJ HARPRING: 10 days, okay. So then the  
6 late-filed exhibit are due 10 days from today.

7 I don't believe that there are any other issues  
8 that need to be addressed right now.

9 Are the parties aware of any?

10 MR. METLI: No, Your Honor.

11 MR. HALLAM: No, Judge.

12 MS. MITCHELL: No, Your Honor.

13 MR. SABO: No.

14 ALJ HARPRING: Are any of the property owner  
15 parties aware of any other issues that need to be  
16 addressed today?

17 (No response.)

18 ALJ HARPRING: I'm seeing no one saying yes.  
19 Very good.

20 Then thank you all for coming. I know that this  
21 was a substantial amount of your time, and I know that you  
22 have traveled a great distance. So I appreciate your  
23 coming here.

24 Thank you to counsel. I am confident you did not  
25 want to be here for this long, but I appreciate it.

1 MS. MITCHELL: Thank you, Your Honor.

2 MR. METLI: Thank you.

3 MR. HALLAM: Thank you, Judge.

4 ALJ HARPRING: And we are adjourned.

5 (The hearing concluded at 6:18 p.m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF ARIZONA           )  
                                  ) ss.  
2 COUNTY OF MARICOPA       )

3

4

5

6

7                   I, KATE E. BAUMGARTH, RPR, Certified Reporter  
8 No. 50582, for the State of Arizona, do hereby certify  
9 that the foregoing printed pages constitute a full, and  
10 accurate transcript of the proceedings had in the  
11 foregoing matter, all done to the best of my skill and  
12 ability.

13

14                   WITNESS my hand this 3rd day of August, 2009.

15

16

17

18

19

20

21

22

23

24

25

  
\_\_\_\_\_  
Kate E. Baumgarch, RPR  
Certified Reporter, No. 50582